

Adam Fried, Administrator, Estate of  
Desmond Franklin,

VS.

Jose Garcia,

In The United States District Court  
Northern District of Ohio  
Eastern Division  
Case No. 1:22-cv-00061

**Sergeant Dalia Lopez**

Taken on Thursday, February 9, 2023

Reporter Rebecca Fumich

DEFENDANT'S  
EXHIBIT

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2 IN THE UNITED STATES DISTRICT COURT

3 NORTHERN DISTRICT OF OHIO

4 EASTERN DIVISION

5 ADAM FRIED, )

6 Administrator, Estate )

7 of DESMOND FRANKLIN, )

8 Plaintiff, ) Case No. 1:22-CV-00061

9 vs. )

10 JOSE GARCIA, )

11 Defendant. )

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14 Transcript of the deposition of SERGEANT

15 DALIA LOPEZ, a witness herein, called by the

16 Plaintiff as if upon examination pursuant to the

17 Federal Rules of Civil Procedure, taken before

18 Rebecca L. Fumich, Registered Professional

19 Reporter, Notary Public in and for the State of

20 Ohio, held at Cleveland City Hall, 601 Lakeside

21 Avenue, Cleveland, Ohio 44114, Thursday,

22 February 9, 2023, commencing at 10:08 a.m.

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## EXAMINATION INDEX

## SERGEANT DALIA LOPEZ

BY MS. BONHAM . . . . .	6
-------------------------	---

## OBJECTION INDEX

BY MR. RUSSELL . . . . .	9
--------------------------	---

BY MR. RUSSELL . . . . .	15
--------------------------	----

BY MR. RUSSELL . . . . .	15
--------------------------	----

BY MR. RUSSELL . . . . .	16
--------------------------	----

BY MR. RUSSELL . . . . .	18
--------------------------	----

BY MR. RUSSELL . . . . .	18
--------------------------	----

BY MR. RUSSELL . . . . .	21
--------------------------	----

BY MR. RUSSELL . . . . .	22
--------------------------	----

BY MR. RUSSELL . . . . .	22
--------------------------	----

BY MR. RUSSELL . . . . .	22
--------------------------	----

BY MR. RUSSELL . . . . .	22
--------------------------	----

BY MR. RUSSELL . . . . .	23
--------------------------	----

BY MR. RUSSELL . . . . .	24
--------------------------	----

BY MR. RUSSELL . . . . .	25
--------------------------	----

BY MR. RUSSELL . . . . .	25
--------------------------	----

BY MR. RUSSELL . . . . .	33
--------------------------	----

BY MR. RUSSELL . . . . .	34
--------------------------	----

BY MR. RUSSELL . . . . .	36
--------------------------	----

BY MR. RUSSELL . . . . .	37
--------------------------	----

BY MR. RUSSELL . . . . .	38
--------------------------	----

1	BY MR. RUSSELL . . . . .	43
2	BY MR. RUSSELL . . . . .	43
3	BY MR. RUSSELL . . . . .	50
4	BY MR. RUSSELL . . . . .	53
5	BY MR. RUSSELL . . . . .	54
6	BY MR. RUSSELL . . . . .	59
7	BY MR. RUSSELL . . . . .	61
8	BY MR. RUSSELL . . . . .	61
9	BY MR. RUSSELL . . . . .	62
10	BY MR. RUSSELL . . . . .	63
11	BY MR. RUSSELL . . . . .	63
12	BY MR. RUSSELL . . . . .	63
13	BY MR. RUSSELL . . . . .	64
14	BY MR. RUSSELL . . . . .	68
15	BY MR. RUSSELL . . . . .	68
16	BY MR. RUSSELL . . . . .	69
17	BY MR. RUSSELL . . . . .	70
18	BY MR. RUSSELL . . . . .	70
19	BY MR. RUSSELL . . . . .	71
20	BY MR. RUSSELL . . . . .	72
21	BY MR. RUSSELL . . . . .	72
22	BY MR. RUSSELL . . . . .	73
23	BY MR. RUSSELL . . . . .	74
24	BY MR. RUSSELL . . . . .	77
25	- - - - -	

1 SERGEANT DALIA LOPEZ

2 after having been first duly sworn, as  
3 hereinafter certified, was examined and testified  
4 as follows:

5 EXAMINATION

6 BY MS. BONHAM:

7 Q Good morning. My name is Elizabeth Bonham.  
8 I represent the Plaintiff in this matter.

9 Would you state and spell your name for the  
10 record.

11 A Dalia, D-A-L-I-A, L-O-P-E-Z, Lopez.

12 Q Thank you. And I guess it's Sergeant Lopez.

13 A Yes.

14 Q Thanks for being here, Sergeant.

15 Have you ever had your deposition taken  
16 before?

17 A No.

18 Q It's a little different than other types of  
19 interviews, so I just want to do a few ground  
20 rules and instructions so that we can be on the  
21 same page. Okay?

22 A Okay.

23 Q You know that everything is being taken down  
24 by the court reporter that we say and that's  
25 going to be the only record of what happened

1 today. It's going to be a written record. So  
2 the helpful things to do are just talk one at a  
3 time, give verbal answers rather than like a head  
4 nod so that she can record it.

5 If I say something or ask something  
6 confusing, just let me know and ask for  
7 clarification before you answer. If you answer  
8 something, I'm going to assume that you  
9 understood me. So just if you are confused at  
10 all, you can ask any time.

11 A Okay.

12 Q Does that all sound okay?

13 A Yes.

14 Q The other thing about depositions is that it  
15 is sworn testimony under oath. Do you understand  
16 that?

17 A Yes.

18 Q Is there any reason that you would not be  
19 able to give honest and truthful testimony today?

20 A No.

21 Q Additionally, you are represented by counsel,  
22 as I understand it; is that right?

23 A Yes.

24 Q And so we have your counsel from the City and  
25 a couple other lawyers for the Defendant in the



1 room. Anybody can make an objection if they want  
2 to, so just go ahead and let them do that. I  
3 probably won't get into it with them. It's not  
4 going to be like a brawl like the movies so you  
5 don't have to worry about that. But unless they  
6 tell you not to answer the question, you just go  
7 ahead and answer it anyway.

8 Does that make sense?

9 A Yes.

10 Q So give them a minute to object and then go  
11 ahead with your answer unless they tell you not  
12 to.

13 A Okay.

14 Q What, if anything, did you do to get ready  
15 for the deposition today?

16 A I reviewed body camera footage and met with  
17 my attorneys.

18 Q Without telling me what you guys talked  
19 about, who did you meet with?

20 A Tim and, I believe, Elena.

21 Q Anybody else there at that meeting?

22 A I'm not sure if there was a third person that  
23 may have stopped in or not, but I don't -- I  
24 can't recall.

25 Q How long ago was that meeting?

1 A It's been a couple months.

2 Q Was Officer Garcia at the meeting?

3 A No.

4 Q Besides body camera footage, did you review  
5 any other documents to get ready for the  
6 deposition?

7 A No.

8 Q When you reviewed that body camera footage,  
9 was it in that meeting a few months ago?

10 A Yes.

11 Q Have you ever reviewed any documents,  
12 footage, or recordings, anything like that more  
13 recently?

14 A No.

15 Q Besides the attorneys you mentioned for the  
16 City Law Department, have you ever talked to  
17 another attorney about this matter to get ready  
18 for the deposition?

19 A No.

20 MR. RUSSELL: Objection.

21 Q Did you talk to anybody else other than  
22 counsel to get ready for the deposition today?

23 A No.

24 Q Not a spouse or a friend?

25 A To get ready, no. I just simply stated I had

1 to come to a deposition.

2 **Q Who did you tell that you were coming?**

3 A My husband knows, co-workers. Just in the  
4 office, "Hey, this is where I'm going today."

5 **Q Did you talk about the matter at issue in the**  
6 **lawsuit with your co-workers before the**  
7 **deposition?**

8 A No.

9 **Q Did you talk to Officer Garcia before the**  
10 **deposition?**

11 A No.

12 **Q Can you take me briefly through your career**  
13 **as a Cleveland police officer, when you started**  
14 **until the present day?**

15 A I started the police academy February 5th of  
16 2018; graduated in August of that year. Was  
17 assigned to the 5th District for training  
18 purposes. Halfway through the training I was  
19 sent over to the 2nd District where I completed  
20 my training and was assigned.

21 I remained there on second shift until  
22 September of this year -- not this year, '22, and  
23 in October -- well, in September I was detailed  
24 to the internal affairs unit. October I was  
25 promoted to sergeant where I remained in the

1 internal affairs unit, and that is where I am  
2 today.

3 **Q Before you went to the police academy here,**  
4 **did you have another career before that or**  
5 **another job?**

6 A Yes. I was a Cleveland police radio  
7 dispatcher.

8 **Q For how long about?**

9 A Almost 17 years.

10 **Q Why did you move from the 5th to the 2nd**  
11 **District during your training period?**

12 A It was normal practice at that time. They --  
13 you would work both sides of the city usually, or  
14 at least two different districts, during your  
15 training.

16 **Q Can you explain about where the 2nd District**  
17 **is in the city?**

18 A It's the near west side, so just west of the  
19 river. From downtown as west as -- roughly like  
20 West 80th Street, Lorain, Detroit, and then as  
21 far south as Brookpark Road.

22 **Q During your training period, did you do any**  
23 **training together with Officer Garcia?**

24 A No.

25 **Q When you were assigned to the 2nd District,**

1     **second shift, when is second shift for that?**

2     A     Roughly 2:00 p.m. to midnight. There were  
3     pre-COVID times and post-COVID times, start  
4     times, for that shift.

5     **Q     I see. So in 2020 what was your shift?**

6     A     I believe it was 1400 to midnight.

7     **Q     Without telling me -- I won't ask for your**  
8     **address or your personal information, but can you**  
9     **tell me what neighborhood you were living at at**  
10    **that time in 2020?**

11    A     Old Brooklyn.

12    **Q     So would you -- and you worked in the 2nd**  
13    **District station? That's where you started your**  
14    **job every day?**

15    A     Correct.

16    **Q     Would you take Pearl Road routinely to work?**

17    A     Yes.

18    **Q     Briefly what was your actual daily shift**  
19    **looking like at that time from when you got to**  
20    **work to when you ended your shift?**

21    A     So usually at 1400, or the start of my shift,  
22    there was a roll call. We would meet in an area  
23    of the district, either inside or out, depending  
24    on the weather. The supervisor would pretty much  
25    just fill everybody in on what's going on,

1 anything that needed to be known for the day,  
2 assignments for the day, and then that usually  
3 lasted anywhere from 10 to 20 minutes.

4 After that, I would prepare the zone car that  
5 I was driving for that day, sign in, refuel if  
6 necessary, things like that, just to get ready to  
7 go on the road. And then from that time until  
8 the end of the night it was just handling radio  
9 assignments.

10 **Q Before roll call would you go to the actual**  
11 **2nd District every day or would you sometimes go**  
12 **right to wherever you were meeting?**

13 A No. It was -- the meetings were at the 2nd  
14 District.

15 **Q Okay. All right. I misunderstood.**

16 So you were a patrol officer. After you got  
17 in your car, you took radio calls and responded.

18 A Yes.

19 **Q In April 2020 was it two officers to a car or**  
20 **one or did it vary?**

21 A Good question because it did vary around that  
22 time. I'm not sure if at that time was the  
23 period where we were split off or not from our  
24 partner.

25 **Q Did you have, during that time, the same**

1 **partner every day?**

2 A Yes.

3 **Q Who was that?**

4 A Carlee Seroka.

5 **Q At that time how many patrol officers were**  
6 **working second shift in the 2nd District**  
7 **approximately?**

8 A Approximately 25.

9 **Q Did you ever work together with Jose Garcia?**

10 A Before the incident?

11 **Q Yeah.**

12 A No.

13 **Q So before April 9th of 2020 you and he had**  
14 **never worked together in the same car?**

15 A Right. No.

16 **Q And you and he had never worked together on**  
17 **any other project or matter?**

18 A We worked the same shift. Could we have been  
19 at the same assignment at the same time? It's  
20 possible, but not that I can recall us working  
21 together, no.

22 **Q Do you know who his partner was at that time?**

23 A I believe Domnori. I am not sure.

24 **Q Do you remember the first time you ever met**  
25 **Jose Garcia at all, period?**

1 A The first time, no.

2 Q Was he already an officer in the 2nd District  
3 when you became an officer in the 2nd District?

4 A Yes.

5 Q Did you guys ever hang out outside of work?

6 A No.

7 Q Not even one time?

8 A Not that I can recall. Again, could we have  
9 been at the same location for a work event?  
10 Maybe, but...

11 Q Did you ever talk on the phone or otherwise  
12 correspond outside of work prior to the incident  
13 at issue?

14 MR. RUSSELL: Objection.

15 A Outside of work, I would have to answer no.  
16 And only to clarify that a lot of people on the  
17 shift had each others numbers, so sometimes  
18 somebody may text work related, "Hey, do you have  
19 this phone number," things like that. So I don't  
20 know if we ever had any type of correspondence,  
21 but nothing outside of work, no.

22 Q Why did you want to become a police officer?

23 MR. RUSSELL: Objection.

24 Go ahead and answer. You can  
25 answer.



1 A I'm sorry. To help people. I mean, that  
2 sounds cliché, but that's what I've done my whole  
3 life really as an adult so...

4 Q So, as you know, we are really here to talk  
5 about the 2020 killing of Desmond Franklin, and I  
6 know there have been prior investigations about  
7 this other than the civil litigation that we are  
8 here today about that you've been involved in.  
9 Can you take me through your participation in  
10 other investigations besides mine about this  
11 incident from the first time you were involved up  
12 until the present?

13 MR. RUSSELL: Objection.

14 Go ahead.

15 A I recall being interviewed on the scene by  
16 the Sheriff's Department, and then there was an  
17 official interview by the Sheriff's Department,  
18 and OPS requested I go in for an interview, and  
19 that is all.

20 Q So related to the on-scene interview with the  
21 Sheriff, is that the first time that someone  
22 started asking you questions about your  
23 involvement in this incident in an official  
24 capacity?

25 A Yes.

1 Q Who was that person that talked to you?

2 A I do not remember his name.

3 Q Did he make a report reflecting your  
4 conversation?

5 A I do not know.

6 Q So you never had the opportunity to review  
7 any report he may have made?

8 A Right.

9 Q Were you asked to fill out a report on the  
10 scene?

11 A Written report, no. I don't -- it's been  
12 long. I'm sorry. Hold on. Actually, no, I  
13 don't think so.

14 Q Were you asked to provide -- that county  
15 officer on the scene to provide him anything else  
16 besides the statement at that time?

17 A No.

18 Q Verbal statement, right?

19 A Right.

20 Q Do you remember whether he ever followed up  
21 with you about that statement in any way  
22 subsequently?

23 A I don't -- I cannot recall if that's the same  
24 person that I went in to interview with, so it's  
25 possible.

1 Q Sometime later you were in a video recorded  
2 interview with another county official or the  
3 same county official, right?

4 A Right. Yes.

5 Q You were represented by counsel in that  
6 interview, right?

7 A Yes.

8 Q Who was your counsel in that interview?

9 A It was the union -- CPPA union lawyer. Maybe  
10 Hilow.

11 Q Besides Mr. Hilow, did you -- were you  
12 represented by any other lawyers with respect to  
13 the county Sheriff's investigation?

14 MR. RUSSELL: Objection.

15 Go ahead.

16 A No.

17 Q And, again, I won't ask you what you said to  
18 any of your lawyers ever. But did you meet with  
19 or talk to any other lawyers beside Mr. Hilow  
20 with respect to the county Sheriff's  
21 investigation?

22 MR. RUSSELL: Objection as  
23 to when you met.

24 A Honestly, I don't even think I met with Hilow  
25 before that interview. I just showed up and he

1 was there. But no.

2 Q Before the video recorded interview by the  
3 county that we're discussing, did you review any  
4 materials, videos, documents?

5 A No.

6 Q Did you talk to Jose Garcia before that  
7 interview?

8 A I don't know if we ever even exchanged -- had  
9 any type of exchange between the incident and me  
10 going in for an interview. From my recollection,  
11 no.

12 Q Did you talk to anybody else prior to that  
13 interview about the events at issue?

14 A Just to clarify, are we talking like speaking  
15 to anybody about any part of that incident?

16 Q Yeah.

17 A Yes. I may have talked to a family member  
18 just to vent about what I saw, speak about what I  
19 saw that day, but other than that, no.

20 Q Then the other investigation you mentioned  
21 participating in was the Office of Professional  
22 Standards investigation and that was more  
23 recently, right?

24 A Maybe a year ago.

25 Q Can you take me through your involvement in

1     **that investigation?**

2     A     I was ordered to appear. The union sent a  
3     representative to meet me there. And then I was  
4     interviewed by, I believe, Investigator Delaney,  
5     and I can't recall the gentleman's name.

6     **Q     Was it just the one time that you were**  
7     **ordered to appear and talk to them that you had**  
8     **involvement in the OPS investigation?**

9     A     Yes.

10    **Q     And that was a video recorded interview,**  
11    **right?**

12    A     Correct.

13    **Q     And the union representative was with you the**  
14    **whole time?**

15    A     Yes.

16    **Q     Did he and you meet prior to the interview to**  
17    **get ready?**

18    A     I met him there in the building.

19    **Q     Did you review any documents and materials to**  
20    **get ready for that interview?**

21    A     No.

22    **Q     Did you talk to anyone else besides that**  
23    **attorney to get ready for that interview?**

24    A     Which attorney?

25    **Q     Besides the union representative. I'm sorry.**

1 A No.

2 Q Did you talk to Jose Garcia prior to the OPS  
3 interview?

4 A No.

5 Q Besides the county investigation and the OPS  
6 investigation, are you aware of any other  
7 internal investigations into the 2020 killing of  
8 Desmond Franklin?

9 A I am aware that there was an internal affairs  
10 case.

11 Q Can you explain to me your involvement in  
12 that, if any?

13 MR. RUSSELL: Objection.

14 Go ahead.

15 A When I was assigned to internal affairs, one  
16 of the sergeants who was in the unit who is no  
17 longer there now advised that he had a case for  
18 the Garcia involved shooting. That's how I know.

19 Q You didn't find out about that until you  
20 became an internal affairs --

21 A Correct.

22 Q -- person.

23 Who is the sergeant that told you about that?

24 A Mussell.

25 Q Is he still in the department?

1 A Yes.

2 Q Did you ever come to find out anything else  
3 about that internal affairs investigation?

4 MR. RUSSELL: Objection.

5 Go ahead.

6 A No. I did not want to.

7 Q Do you know if there are any documents that  
8 exist related to that investigation?

9 MR. RUSSELL: Objection.

10 A I'm sure there is.

11 Q But you were never made aware of or spoken to  
12 in connection with the internal affairs  
13 investigation as a witness, right?

14 A Right.

15 Q Besides the county investigation, the OPS  
16 investigation, and the IA investigation, are you  
17 aware of any other investigations --

18 MR. RUSSELL: Objection.

19 Q -- into the 2020 killing of Desmond Franklin?

20 MR. RUSSELL: Objection.

21 Go ahead.

22 A I apparently am not.

23 Q Were you ever interviewed about the killing  
24 of Desmond Franklin or the surrounding events by  
25 anyone that we haven't discussed yet?

1 MR. RUSSELL: Objection.

2 Go ahead.

3 A I do not believe so, no. No.

4 Q Do you remember whether you talked to any  
5 homicide detectives either at the scene of the  
6 event that day or subsequently?

7 A No.

8 Q No, you did not; or no, you don't remember?

9 A No, I did not.

10 Q What does UDFIT stand for?

11 A Use of Deadly Force Investigation Team.

12 Q Is there a way that people say that acronym  
13 so I don't sound goofy when I say it?

14 A UDFIT.

15 Q Did you talk to anyone from UDFIT about this  
16 incident?

17 A No.

18 Q Did you, yourself ever make any written  
19 record about any part of this incident?

20 A I believe the day that -- when it happened,  
21 when I was just sitting off to the side waiting  
22 to see if I was needed for anything, I may have  
23 made notes just because it was fresh in my mind  
24 what I had saw. When there's a lot going on, I  
25 think sometimes maybe just you might forget



1 details. But outside -- and it was very like  
2 simple things, like what I saw when I pulled up,  
3 you know, just to not lose those details. But  
4 outside of that, no.

5 **Q Were those like notes on a personal notepad?**

6 A It was just, I believe, like a random paper  
7 that I had in my car. Just grabbed it and wrote.

8 **Q That seems like a police officerly thing to**  
9 **do.**

10 A Yes.

11 **Q You wouldn't still have those notes, would**  
12 **you?**

13 A I do not.

14 **Q But no one asked or directed you to make an**  
15 **official written account based upon these events?**

16 A No, not that I can recall. I'm almost  
17 positive they did not, but I'm not 100 percent  
18 sure if I did or not the day of. It's just been  
19 so long.

20 **Q Are you aware of any sort of policy or**  
21 **protocol that governs what you as an officer**  
22 **should do if you're involved or witness something**  
23 **like this, deadly force incident?**

24 MR. RUSSELL: Objection.

25 You can answer, if you know.

1 A It depends. If you are a witness, obviously  
2 on duty is different than off duty. As a  
3 witness, though, to any crime off duty, there is  
4 a directive that states that -- you know,  
5 depending on the situation, sometimes it's best  
6 to call it in versus getting involved, you know.  
7 Again, it depends on the situation.

8 **Q So that directive you're referring to governs**  
9 **if you see something whether you should even**  
10 **become involved; is that right?**

11 A Correct.

12 MR. RUSSELL: Objection.

13 **Q Are there any directives, procedures,**  
14 **policies you're aware of that govern what you**  
15 **have to do once you do become involved?**

16 MR. RUSSELL: Objection.

17 Go ahead.

18 A There are many general police orders.  
19 There -- again, it depends if you are, I believe,  
20 on or off duty as to how you would report, but  
21 if -- and I think it's different if you were  
22 involved versus if you were a witness to it. So  
23 there's just different reporting guidelines.

24 **Q Okay. I'd like to talk about the day of the**  
25 **shooting, April 9th, 2020. Can we start by you**

1     **taking me through the events from when you very**  
2     **first became aware that anything was going on?**

3     A     As I'm driving northbound on 25th/Pearl,  
4     ahead of me I can see to the right a group of  
5     people, a car, and at first I really can't tell  
6     what's going on. As I get closer and I'm almost  
7     up right next to it, I look over and it  
8     clearly -- you know, I could see that there's a  
9     car that's smashed up. So I look over and I see  
10    the driver covered in blood. So I think to  
11    myself like that's a pretty bad accident.

12        I pulled over, went to check, make sure that  
13    everything was okay, everybody was okay. As soon  
14    as I get out of my vehicle -- again, there's a  
15    good amount of people there. It's almost a  
16    little bit chaotic like. There's a young -- a  
17    teenage male screaming. There is a male that  
18    approaches me and says something along the lines  
19    of like he doesn't look so well. I'm guessing he  
20    was referring to the driver.

21        So I walk back -- or run back to my car where  
22    I had my work bag, my backpack. I retrieved my  
23    police radio. And I recall putting up my car  
24    windows because, again, I had my work items in  
25    there. It was kind of a warmer day, like windows

1 were down, so I put up my windows. I believe I  
2 put my battery into my radio, turned it on,  
3 starting walking back, went over the radio to  
4 broadcast -- to request for assistance at that  
5 point, you know, make sure that the call was  
6 there and that EMS was going to be en route.

7 As I'm doing that, that is the point where I  
8 see Officer Garcia coming like from the south  
9 walking north again on 25th on the sidewalk, and  
10 he's yelling something. And, again, I'm on the  
11 radio so it's almost -- like it's hard for me to  
12 tell what exactly he's saying, and then he --  
13 from what I can recall, he is yelling like  
14 "Where's the gun? Where's the gun?" And he's  
15 looking at the teenage male. And then at that  
16 point I think to myself, well, this is more than  
17 just a car accident.

18 So I believe Garcia directed me or told --  
19 you know, told me to stay with the teenage boy  
20 who was extremely frantic. So the teenager  
21 walked -- he was in a grassy area that was like  
22 behind the fence where the actual car was.  
23 Here's the car. Here's the fence. Here's the  
24 grassy area. The teenager was over there. And I  
25 stayed over there with him, and I was more or

1 less trying to calm him down because he was  
2 crying, he was asking for his mother, that's all  
3 he wanted, and I just kept telling him like just  
4 try to relax, try to calm down.

5 That was really my main interaction on the  
6 scene was to make sure like he just remained  
7 there. Again, I didn't know what was going on.

8 And so between the time I called it over the  
9 radio and officers -- first responders arrived,  
10 it couldn't have been more than 90 seconds. It  
11 was fairly -- like between a minute, minute and a  
12 half they were there.

13 The officers arrived. One of the officers --  
14 I remember, I believe, handcuffing the juvenile,  
15 but I don't remember like who I grabbed the cuffs  
16 off or where I -- it just happened so quick.  
17 And, again, it was just for the reason of trying  
18 to figure out what was going on. Just -- and  
19 that was it.

20 First responders arrived. I walked away. I  
21 stepped away. I really had not much information  
22 to offer. So I waited there. The supervisor  
23 showed up and told me just to remain on scene.  
24 After a few minutes of just kind of standing  
25 around, I walked to my vehicle, sat in my

1 vehicle, and then spoke to the Sheriff's office.

2 Q Thank you. I'm going to ask you some  
3 follow-up questions to nail it down. I'll try  
4 not to be too tedious. Okay?

5 When you first became aware of what you, at  
6 that point, thought was a car crash, you were  
7 heading in to work, right?

8 A Correct.

9 Q So you were coming from your house --

10 A Yes.

11 Q -- in Old Brooklyn to the 2nd District.

12 A Yes.

13 Q You routinely took that same route? You were  
14 going northbound on Pearl?

15 A Yes.

16 Q About what time was that when you left your  
17 house?

18 A Roughly like quarter till.

19 Q You had to be there at 1400?

20 A Um-hmm.

21 Q When you were heading northbound on Pearl  
22 Road, did you ever see either the decedent's car  
23 or Officer Garcia's car?

24 A No.

25 Q Did you ever see Officer Garcia?

1 A No.

2 Q Did you ever see either the decedent or the  
3 teenager prior to when you arrived at the car  
4 crash?

5 A No.

6 Q What made you, even though you were at that  
7 time off duty, decide to get involved?

8 A Just what I saw. It wasn't a regular car  
9 crash. There was a lot of blood. Really it was  
10 that that made me pull over.

11 Q When you pulled over, did you pull your car  
12 right up to the scene at Riverside?

13 A Pretty much, yeah.

14 Q And when you saw the teenager, you're  
15 referring to Devin Badley? Do you now understand  
16 that that's who that is?

17 A Yes.

18 Q When you saw Devin, where was he the very  
19 first time you saw him?

20 A I believe it was next to the driver's side  
21 window.

22 Q Can you explain to me what he was doing, what  
23 he was saying in the best detail you can  
24 remember?

25 A From what I can remember -- and, again, it

1 was only an assumption -- I think he was trying  
2 to like maybe administer some type of first aid  
3 to the driver.

4 **Q Do you remember what he looked like, what he**  
5 **was wearing at that time?**

6 A I believe it was a white t-shirt, but  
7 nothing -- I don't remember bottoms or anything  
8 like that.

9 **Q Did you form any impressions at that time**  
10 **about the driver?**

11 A What do you mean?

12 **Q Did you form any impression about what was**  
13 **going on with him, what he was doing, his**  
14 **physical state?**

15 A When I initially walked up, no, because I  
16 didn't get close enough. I was still like  
17 several feet away and somebody like was standing  
18 in front of me telling me like he doesn't look  
19 good. I don't remember the full exchange with  
20 this person, but when he said that, again, I had  
21 not gotten over to the vehicle and like looked at  
22 him up close. So, no, I just could tell like  
23 obviously he's bloody, he's not doing well, and  
24 that's why I went to get my radio. That's my  
25 best way of helping at that point.



1 Q So at that time you observed these things  
2 that you just told me about, before you further  
3 engaged you went to get your work bag; is that  
4 right?

5 A To get the radio, yes.

6 Q What else was there in your work bag besides  
7 your radio and the battery?

8 A I usually have like random things. Obviously  
9 not random, work related. But handcuffs, my gun  
10 is either on my hip or in my bag. If I'm like  
11 rushing out of the house, I'll just grab it, put  
12 it in my bag and it's there. Maybe a jacket, old  
13 run sheets, and just like miscellaneous items,  
14 pens, Chapstick, things like that.

15 Q Your police radio, is that something that's  
16 issued to you by the department?

17 A It is.

18 Q Is that -- is it the same type of radio  
19 issued to all of the patrol officers at that  
20 time?

21 A Yes.

22 Q Are you -- is there a reason that the battery  
23 was separated from it at the time?

24 A I took it home every night and charged it.  
25 So I just kind of had a routine, leave the

1 battery in the charger, pull it off. If I put it  
2 together, I would; if not, I would, again, just  
3 put it in my bag.

4 **Q Do you remember where you had your gun at**  
5 **that time?**

6 A I believe my gun was in my bag that day.

7 **Q Is the gun also something that was issued to**  
8 **you by the department?**

9 A Yes.

10 **Q Is the same type of gun issued to all the**  
11 **patrol officers at that time?**

12 MR. RUSSELL: Objection.

13 Go ahead.

14 A There are different -- it's the same make,  
15 but not everybody has the same like exact gun,  
16 no.

17 **Q Would there be a basis for whether you got a**  
18 **certain type of gun?**

19 A Preference, size. There's like a smaller and  
20 then a larger one. One that carries more rounds  
21 than the other.

22 **Q Do you have a holster for the gun that's also**  
23 **department issued?**

24 A Yes.

25 **Q Does every officer at that time have the same**

1     **type of holster?**

2                     MR. RUSSELL:     Objection.

3                     Go ahead.

4     A     Are you talking about an off duty holster?

5     **Q     If they're different, can you explain it to**  
6     **me?**

7     A     There is a difference.

8     **Q     Thank you.**

9     A     So for work purposes, you would have a  
10    holster that is on your duty belt. Those are fed  
11    into your belt, so to try to get that off of your  
12    belt every night would be almost undoable. So  
13    everybody, I believe, has like their own  
14    preference of off duty holster. So like I have  
15    one on now where it's just -- you kind of hook --  
16    you can hook it, you can feed it into your belt,  
17    whatever you prefer. But usually it's two. You  
18    have one on your duty belt and one for outside of  
19    work.

20    **Q     The one that -- the holster that an officer**  
21    **wears off duty, is that also department issued or**  
22    **is that something they get?**

23    A     No. It is not department issued.

24    **Q     But the gun is still department issued,**  
25    **right?**

1 A Correct. Well, I don't know -- are you  
2 asking about mine?

3 Q That's good.

4 A Okay.

5 Q Let me strike that and rearrange it. Thank  
6 you.

7 Off duty officers are allowed to wear their  
8 duty gun --

9 A Yes.

10 Q -- off duty, right?

11 A Yes.

12 Q And if they do that, they can keep it in  
13 their own private holster if they want; is that  
14 right?

15 A Yes.

16 Q They're not required to wear their duty  
17 pistol while they're off duty, right?

18 A Yes.

19 Q But they can?

20 A Yes.

21 Q And you will do that, for example, when you  
22 were heading into the office or you would keep it  
23 in your bag.

24 A It's your decision.

25 Q Besides the radio and, I guess, radio battery

1 and the department issued gun, are there other  
2 things that you would -- that are department  
3 issued materials that you would take home with  
4 you after your shift?

5 A That's kind of like an open-ended question.  
6 So you -- you could take anything that's issued  
7 to you home. Like say my vest that is issued by  
8 the City, I'll take it home every few weeks to  
9 wash it. Duty belt, I would take my duty belt  
10 home if I had part time somewhere working where I  
11 would need to utilize it. City issued uniform,  
12 clothing, jacket. Sorry. Maybe I missed the  
13 question.

14 Q No. That's okay.

15 Are there any rules or expectations governing  
16 which department issued equipment you should take  
17 home with you after your shift?

18 A No.

19 MR. RUSSELL: Objection.

20 Go ahead.

21 A No.

22 Q It's just totally discretionary for the  
23 officer.

24 A Yes.

25 Q Are there any rules or expectations regarding

1 what you need to do with your department issued  
2 gun while you're off duty?

3 MR. RUSSELL: Objection.

4 Go ahead.

5 A As long as it's safeguarded. Outside of  
6 that, no.

7 Q What does safeguarded mean in that context?

8 A Obviously like just keeping it in your  
9 possession, you know, not leaving it at -- in a  
10 restaurant restroom or just making sure you know  
11 where your gun is and you obviously have --  
12 you're responsible for it essentially.

13 Q When you -- getting back to the April 2020  
14 incident, you went to your car to retrieve your  
15 radio so that you could call in the situation; is  
16 that right?

17 A Yes.

18 Q Then at that point did you retrieve your gun?

19 A No.

20 Q How come?

21 A I -- it was just an accident at that point in  
22 my mind, so I didn't -- and, again, going back to  
23 that question, like I'm not 100 percent if I had  
24 it on my hip or in my bag. But, for some reason,  
25 again, just thinking back from my own memory, as

1 my memory would serve me, I do believe that it  
2 may have been in the bag. But, no, if it -- if I  
3 didn't have it, I definitely didn't grab it.

4 **Q Up until this point did you identify yourself**  
5 **to anyone as a police officer?**

6 A Yes. When I walked up, the first person that  
7 spoke to me, I explained to them that I was a  
8 police officer and said what's going on. Those  
9 were like my first comments made on the scene was  
10 that.

11 **Q Why did you identify yourself as a police**  
12 **officer right away?**

13 A I feel like it's necessary so -- I mean, that  
14 way at least they know that I'm there to help.  
15 I'm not just another person. That's really it.

16 **Q You were still off duty at that time, right?**

17 A Yes.

18 **Q Just because you were on your way to work, so**  
19 **you hadn't started your shift yet? Is that what**  
20 **that means?**

21 A Correct.

22 **Q But once you identified yourself as an**  
23 **officer, were you acting as a police officer?**

24 MR. RUSSELL: Objection.

25 A I'm going to say yes because at that point I

1 radioed it in, so yes.

2 Q So you get your police radio out of the car  
3 and you start heading back over from your car to  
4 Desmond and Devin -- is that right? -- as you're  
5 radioing?

6 A So I don't recall seeing Devin when I  
7 returned. Like the -- initially I saw him there,  
8 and then I didn't see him there, and then I saw  
9 him again. So I don't know where he was. But I  
10 had no reason to look for him -- you know what I  
11 mean? -- to keep my eye on him at that point or  
12 for any reason. So when I returned with my  
13 radio, I feel like initially I did not -- I don't  
14 recall seeing him there like initially as I'm  
15 walking back.

16 Q Did you -- after you were coming back with  
17 your radio, did you talk to any of the other  
18 witnesses again?

19 A No. No.

20 Q Did you ever record the identity of any of  
21 the other witnesses that you had seen or spoken  
22 to?

23 A No.

24 Q Did you ever later become aware of any  
25 witness's identity?



1 A No.

2 Q So you're coming back, you're on your radio,  
3 and that's the first time that you see Officer  
4 Garcia coming up; is that right?

5 A Correct.

6 Q You testified that he's yelling something,  
7 but you don't remember what.

8 A Initially because I feel like I was talking.  
9 Like when I first saw him, I mean, he was still  
10 at a distance, but walking in this direction and  
11 he was shouting something, and I believe that was  
12 simultaneously the time that I was calling it  
13 over requesting for assistance, so yes.

14 Q Was it your impressions that as he was coming  
15 up to you, that was the first time he was  
16 entering the scene of the car crash?

17 A When I first saw him, yes. Yes.

18 Q Do you know exactly where he was coming from?

19 A I mean, I later found out, but at that time,  
20 no.

21 Q What did you later find out?

22 A That his vehicle was down that way, but I  
23 mean, all I could tell you is he was walking  
24 south to north. He was walking northbound when I  
25 initially saw him. I saw nothing else.

1 Q And then -- so he was shouting something.

2 What else precisely happened at that time?

3 A I believe that's like right after -- or at  
4 that time I heard him say -- he was shouting at  
5 Devin, "Where's the gun? Where's the gun?"

6 That's all I heard. And, again, still didn't  
7 click to me, you know, what had happened.

8 Q Was it apparent that Officer Garcia had  
9 recognized you --

10 A Yes.

11 Q -- as he was coming up?

12 A Yes.

13 Q And you recognized him?

14 A Right. Yes.

15 Q Was he wearing plain clothes?

16 A Yes.

17 Q Do you remember whether he was wearing any  
18 CPD clothes?

19 A I don't recall. I don't -- I don't know. I  
20 don't think so.

21 Q I should have asked, were you wearing any CPD  
22 clothes?

23 A I had my work pants. Usually I never put  
24 like my shirt on until I got to work. So, no, I  
25 would have just been wearing a t-shirt. I had a

1 leather jacket on, work pants, and black shoes.  
2 Nothing with any type of insignia, no.

3 Q We were discussing previously the department  
4 equipment that you keep with you. What about a  
5 badge, do you keep that with you?

6 A I usually do have -- yes, I do carry a badge  
7 in my bag.

8 Q Did you ever take your badge out and show it  
9 to anybody?

10 A I don't remember.

11 Q Do you remember if Officer Garcia had his  
12 badge?

13 A I don't know.

14 Q Or if he ever took it out and showed it to  
15 anyone?

16 A I did not see one.

17 Q When he was initially walking up and you  
18 initially realized it was him, do you remember if  
19 he had his gun out?

20 A No.

21 Q No, you don't remember; or no, he didn't?

22 A No, I did not see a gun.

23 Q At any point did you see him pull his gun  
24 out?

25 A No.

1     **Q     At any point did you see him make physical**  
2     **contact with Devin Badley?**

3     A     No.

4                     MR. RUSSELL:     Objection.  
5                     Go ahead.

6     A     No.

7     **Q     Can you describe Officer Garcia's demeanor,**  
8     **the impression that you formed, if any, about his**  
9     **demeanor when he was initially walking up?**

10                    MR. RUSSELL:     Objection.  
11                    Go ahead.

12    A     Initially, like I said, he was yelling and it  
13    was more like an excited -- not excited like. I  
14    really don't know how -- I don't know how to  
15    describe his demeanor at that point. I mean,  
16    something was going on. It was clear that  
17    something was happening. He was -- like his --  
18    he was elevated a little. He was yelling, but he  
19    wasn't -- I'm sorry. I'm trying to think of a  
20    word to just best describe it. I'm sorry. I'm  
21    drawing a blank.

22    **Q     It's okay. It sounds like he was elevated.**

23    A     Yes.

24    **Q     Was he shook up?**

25    A     Initially that's not what I got off of him.

1 I mean, he was a few feet away, but I didn't  
2 sense that.

3 **Q Was he angry?**

4 A I didn't sense that either, no.

5 **Q Just elevated?**

6 A Elevated. It was like kind of -- I don't  
7 know. That's why it's hard to describe. Looking  
8 back at it, it wasn't -- you know, the word you  
9 just stated, that wasn't there. It was just like  
10 an elevated response almost, but hard to  
11 identify.

12 **Q Maybe adrenaline?**

13 A Yes. Maybe. That's a good way to describe  
14 it.

15 MR. STADLER: I'm sorry.

16 What did you say?

17 MS. BONHAM: Adrenaline.

18 **Q At this point you got your radio, you**  
19 **recognize him, he recognizes you, he's coming up,**  
20 **where is Devin Badley?**

21 A So I feel like he came back into my view like  
22 from this side. Like Garcia was coming from this  
23 side. Devin Badley was coming from this side.  
24 So where he came from, I don't know, but that is  
25 when we then moved over to the grassy area.

1 Q So you're on the sidewalk, you move over to  
2 the grassy area.

3 A Well, I -- when I initially saw him, I was  
4 not on the sidewalk yet, or was -- I feel like I  
5 was still in the street, but close to the curb,  
6 and then, yes, moved to the grassy area.

7 Q Okay. So you had pulled up -- you're driving  
8 a minivan at this time, right?

9 A Um-hmm.

10 Q There are other witnesses -- and I'm talking  
11 about initially when you became aware of the  
12 event. You had pulled up, there are other  
13 witnesses, your car's on the street, right?

14 A Right.

15 Q And then there's the sidewalk, the crashed up  
16 gate, and then the grass; is that right?

17 A Right.

18 Q And the car is near the crashed up gate in  
19 the grass; is that right?

20 A Correct. But it's -- the car's on one side  
21 of the gate, and the grassy area I'm talking  
22 about that I ended up standing with Devin was on  
23 the other side of the gate.

24 Q Okay. So you parked your car on Pearl.

25 A Correct.

1 Q And Garcia comes up from the south of you.

2 A Correct.

3 Q And when he's coming up and you see Devin  
4 again, you think maybe Devin's coming in from the  
5 north or at least the other side.

6 A Correct.

7 Q Okay. And what, if anything, is Devin doing  
8 when you become aware of him again?

9 A He was hysterical is the best way to describe  
10 it. He was -- he was yelling and screaming and  
11 just in a hysterical manner.

12 Q Was he crying?

13 A Initially, like when I first saw him, no, but  
14 when we got to the grassy area, it almost looked  
15 like he was, yes.

16 Q So you become aware of Devin again as Officer  
17 Garcia is coming up. Officer Garcia is shouting,  
18 right?

19 A It's more of like yelling. Like shouting I  
20 feel is a stronger word than yelling, but it was  
21 more like yelling versus shouting. But, yes,  
22 he's yelling.

23 Q And he's yelling at Devin?

24 A He is directing -- when he says "Where's the  
25 gun," that was directed to Devin, yes.

1 Q Up until this point had you seen any gun?

2 A No.

3 Q Had you had an opportunity to take a closer  
4 look at the car or at Desmond up until this  
5 point?

6 A I don't know when I looked in closer. I  
7 don't know if it was before or after that moment.

8 Q Okay. So it sounds like when you first get  
9 there and become aware of the crash, you take a  
10 look from a little bit farther away as Devin's  
11 administering aid it seemed to you, right?

12 A Right.

13 Q And you didn't see a gun at that point or  
14 where it might have been.

15 A No.

16 Q And you didn't see Desmond closely at that  
17 point either, right?

18 A Right.

19 Q Then you go to get your radio, come back,  
20 Officer Garcia's coming up, and you have this  
21 interaction with Devin, right?

22 A Right.

23 Q And in between those two times you didn't  
24 have an opportunity to go back and take a closer  
25 look at the car.



1 A Right. If we're talking between me initially  
2 pulling up, going back to get my radio and coming  
3 back, no. No.

4 Q So Officer Garcia's coming up, he's yelling  
5 at Devin, at this point you start to think there  
6 might be something going on besides a car crash;  
7 is that right?

8 A That's right.

9 Q What precisely happened then between you and  
10 Garcia and Devin?

11 A I believe that is when Garcia said like stay  
12 with him or watch him or something that made me  
13 remain with Devin. But, either way, he was like  
14 concerned for me at that point because how he was  
15 acting.

16 Q You mean Devin?

17 A Devin. Yes. Like I said, he was very  
18 excited and like very upset, hysterical crying,  
19 and I was just trying to bring him down like, you  
20 know. So at that point I just feel like from  
21 there on out is pretty much where I was.

22 So I would have had -- I believe that's when  
23 I may have looked into the car is when I was  
24 walking to that grassy area. So after calling it  
25 in, walking past the vehicle, the crashed

1 vehicle, I think that's when I looked in, and  
2 then walked to the grassy area.

3 Q So at some point as you were walking over to  
4 the grassy area where you sort of physically  
5 encountered Devin, that's where you were able to  
6 get a closer look into the car?

7 A Correct.

8 Q Did you see a gun in there at that point?

9 A I did not.

10 Q Did you get a closer look at Desmond Franklin  
11 at that point?

12 A Yes.

13 Q Did you form any opinions about him at that  
14 point, anything at all?

15 A He appeared lifeless. I just really am not  
16 100 percent sure when I got that close up to look  
17 at him -- you know what I mean? -- timeline wise.  
18 I just --

19 Q When you did get the close-up look at him,  
20 did you become aware that he had been shot?

21 A No.

22 Q He just appeared lifeless and bloody?

23 A Correct.

24 Q When Officer Garcia told you to stay with  
25 Devin, was it your understanding that you were

1 **detaining him?**

2 MR. RUSSELL: Objection.

3 A I don't know. It was more of just -- again,  
4 from -- it was just to keep an eye on him and  
5 it -- I don't know. It could have been. I could  
6 have felt that, that it was like -- I would say I  
7 could see, yes, me thinking like he needs to be  
8 detained or taking that and interpreting to that.

9 **Q Did you -- is there anything that Devin said**  
10 **to you at that time when it was just you with him**  
11 **that you can remember?**

12 A The only thing he said -- like the only words  
13 really that he was saying were that he wanted his  
14 mother.

15 **Q When you were staying with Devin at that**  
16 **time, you said it was about probably just 90**  
17 **seconds until the uniformed officers and EMS**  
18 **started arriving, right?**

19 A Um-hmm.

20 MR. RUSSELL: I'm sorry?

21 A No.

22 MR. RUSSELL: Did you mean  
23 yes? Just because you said  
24 um-hmm. So I just want -- since  
25 she's taking it, I just want to

1                   make sure the record's clear.

2                   That's all.

3       A     I want to say from the time I called it in  
4     until the time they arrived was super fast,  
5     minute, minute and some change. But, yes, from  
6     the time I called it in.

7       **Q     So this interaction is happening pretty**  
8     **quickly. It's over in a minute.**

9       A     Very, yes.

10      **Q     After Officer Garcia tells you to remain with**  
11     **Devin, what does he do, Garcia?**

12      A     I don't know.

13      **Q     You didn't see him do anything?**

14      A     I don't -- I can't -- I was focused on Devin.

15      **Q     Do you know if Officer Garcia at that point**  
16     **approached the car that Desmond was in?**

17      A     I don't know where -- I can't recall where he  
18     was standing at the time because, again, my eyes  
19     were on Devin.

20      **Q     Before EMS and other uniformed officers show**  
21     **up, is there anything else that you can remember**  
22     **that happened at this point?**

23      A     No. And at this point I still don't know  
24     what actually happened. So that's what is  
25     like -- that's why it's hard for me to kind of --

1 because what I learned afterward versus what I  
2 knew at the time. You know what I mean? So no,  
3 no, nothing that I can remember. No.

4 **Q I appreciate that.**

5 **And when you say at this point you still**  
6 **don't know what happened, what you mean is you**  
7 **didn't know there was an officer involved**  
8 **shooting.**

9 A I didn't know, right, that there was a  
10 shooting at all.

11 **Q You thought it was a car crash still.**

12 A Still. And obviously something more to it,  
13 but what, you know...

14 **Q Then at some point you obtain handcuffs from**  
15 **someone and handcuff Devin, right?**

16 A Right.

17 **Q You don't remember who or when precisely.**

18 A I believe it was like right when the  
19 uniformed officers arrived and walked my way.  
20 Whatever officer or whoever walked towards me, I  
21 believe, is where I got the handcuffs and  
22 assisted with handcuffing him.

23 **Q Why did you guys handcuff Devin?**

24 A So initially -- and this is the best way I  
25 can explain this -- between me thinking that this

1 is a car accident to then seeing Garcia and  
2 hearing him question where's the gun, I didn't  
3 know what role Devin played in any of it. So it  
4 was more or less just to like slow everything  
5 down and figure everything out.

6 **Q Was it your impression that Officer Garcia**  
7 **wanted Devin to be detained?**

8 MR. RUSSELL: Objection.

9 Go ahead.

10 A I would say yes. Yes. I mean -- or maybe I  
11 chose that. I can't remember why. I don't know.  
12 I'm sorry.

13 **Q After you had assisted in handcuffing Devin,**  
14 **what did you do then?**

15 A I think I walked away because, again, I was  
16 off duty. You know what I mean? So I didn't  
17 feel like I should just kind of stand at the  
18 scene. So I remember walking out of the green  
19 grassy area, walking south where Garcia was  
20 standing, and I stood there with him, and I  
21 believe the officer -- this lieutenant that  
22 showed up -- I believe he was a lieutenant at the  
23 time -- told me to -- him and another sergeant  
24 told me to stand by, like just remain on scene,  
25 because I was technically like the first person

1 on scene, so just stay where you are if we need  
2 anything. And that's what I did.

3 **Q At that time, even though you were off duty,**  
4 **you had police officer responsibilities; is that**  
5 **right?**

6 MR. RUSSELL: Objection.

7 Go ahead.

8 A That's what I felt, yes.

9 **Q When you went to stand with Officer Garcia at**  
10 **that moment, did you all say anything to each**  
11 **other?**

12 A I believe it was an exchange, like "Are you  
13 okay," I think I said. I asked him, "Are you  
14 okay?"

15 And he said something like, "I just can't  
16 believe" -- he still didn't say what happened. I  
17 don't recall him saying like, you know, flat out  
18 like I shot him or anything. I don't remember  
19 any type of conversation like that. It was just  
20 like, "I can't believe what just happened."

21 And he appeared like not okay physically  
22 like, so -- and that's why I asked are you okay.  
23 And I believe I gave him like a piece of candy or  
24 something because he just looked drained, like  
25 his color seemed like -- he looked pale.

1     **Q     At that moment did it appear to you that he**  
2     **was physically injured?**

3     A     No. Not physical injured, no. But  
4     physically like almost like sick he looked. He  
5     didn't look okay.

6     **Q     Was he still exhibiting that elevated state**  
7     **that you described?**

8     A     No.

9     **Q     He was drained?**

10    A     He was off of the adrenaline rush is the best  
11    way to describe it.

12    **Q     Did he seek medical attention at that time**  
13    **that you know of?**

14    A     I don't know.

15    **Q     Did he say anything else to you at that**  
16    **moment that you can remember?**

17    A     He may have made a comment about like  
18    something happening down the street, like  
19    stealing from a store, something along that line,  
20    but, again, I feel like I almost wasn't like  
21    really like -- I didn't absorb that. Like I  
22    heard it, but I didn't really connect. Yeah. It  
23    was a very -- like just an interesting situation  
24    because, again, I didn't really know what was  
25    going on still. So the conversation was brief.



1 It was really -- I don't think there was anything  
2 else to it.

3 Q So it sounds like you were checking on him,  
4 giving him some candy.

5 A Yeah. Or gum. I gave him a piece of gum.  
6 It was something. It looked like his blood sugar  
7 had dropped or something.

8 Q He had made a statement like I can't believe  
9 it, but not a detailed statement of what  
10 occurred, right?

11 A Right.

12 Q And he mentioned something about theft at a  
13 store.

14 A Right.

15 Q Anything else you can remember from that  
16 moment that he might have said?

17 A No.

18 Q And this interaction that we're talking about  
19 between you and Officer Garcia was immediately  
20 after you had stepped away from the scene with  
21 Devin, right?

22 A I don't know if it was right immediately  
23 after or if it was within like a minute or two  
24 because I feel like between me walking away I did  
25 stop and speak to the supervisors that arrived.

1 So shortly after, within minutes maybe. Yeah.

2 Q Did anyone ever direct you to either talk or  
3 not talk to Garcia at that time?

4 A I don't think so, no.

5 Q Did anyone direct you whether to remain at  
6 the scene?

7 A Yes.

8 Q Did you receive any other directions besides  
9 remain at the scene?

10 A No.

11 Q Did you see or hear Garcia talking to anyone  
12 else at that time?

13 A No, I don't. But I walked away and sat in my  
14 car so I just --

15 Q It sounds like -- after you had that  
16 interaction with Officer Garcia, you walked away  
17 and sat in your car for about how long?

18 A It was a little bit of a while, but I don't  
19 know. Maybe an hour. I don't know.

20 Q After that, did you talk to anyone else  
21 besides -- ultimately I know you talked to the  
22 Sheriff's Department, the county -- right? -- at  
23 the scene?

24 A Right.

25 Q Between sitting in your car and talking to

1 the county officers, did you talk to anybody else  
2 about what had happened?

3 A I remember I called my husband, but that's  
4 it. And I was just like, "Hey, if you see the  
5 van" -- because there was media. I already knew  
6 my van was sitting there. I didn't want him to  
7 think that I was involved in something, you know.  
8 So I just called him to tell him, "Hey, I'm  
9 okay," just in case, but that was it. No, I  
10 didn't speak to anyone else.

11 Q Between leaving where you were with Devin  
12 after he was handcuffed and this time of sitting  
13 in your car, did you ever interact with Devin  
14 again after that point?

15 A No.

16 Q Did you ever hear him say anything again  
17 after that point?

18 A No.

19 Q Did you ever look at Desmond or their car  
20 again after that point?

21 A Did I look at the car? Maybe, yeah. From  
22 a -- but I was, at this point, a distance away.  
23 Like I believe I moved my vehicle further down  
24 when they taped off the crime scene. No.

25 Q Do you remember how long you had to stay

1     **there at the scene total that day?**

2     A     I want to say total -- I don't know -- an  
3     hour and a half, two hours tops. I can't recall.  
4     I'm not for sure. Roughly.

5     **Q     Were you involved at all in processing the**  
6     **scene for evidence?**

7     A     No.

8     **Q     Did you become involved in any investigation**  
9     **or evaluations of what had happened that day at**  
10    **the scene --**

11    A     No.

12                         MR. RUSSELL:     Objection.

13                         Go ahead.

14    A     No.

15    **Q     -- besides talking to the county officials?**

16    A     No.

17    **Q     Did you end up leaving the scene before other**  
18    **officers and officials left?**

19    A     Yes.

20    **Q     Were you directed to do that?**

21    A     I was just waiting to talk to -- after I  
22    spoke to the Sheriffs, I left.

23    **Q     They said --**

24    A     But I don't remember if they had like -- I  
25    don't remember if I was instructed to leave or if

1 I just felt like I was done.

2 **Q After you left, did you go to work?**

3 A I went to the district, but then I ended up  
4 just leaving and going home.

5 **Q Why was that?**

6 A I don't remember if I was advised to by the  
7 supervisors, like -- I don't remember.

8 **Q When you got to the district, did anyone have**  
9 **you fill out any paperwork or otherwise talk to**  
10 **anyone about this event?**

11 A No.

12 **Q After you had that conversation with Officer**  
13 **Garcia where you gave him the gum or candy right**  
14 **after leaving Devin's side, did you talk to him**  
15 **again while the both of you were at the scene?**

16 A No. It was just the initial -- like once I  
17 went to my car, I stayed in my car. No.

18 **Q So that was the only time you talked to**  
19 **Officer Garcia -- I'm sorry. That was the last**  
20 **time you talked to Officer Garcia that day?**

21 A Yes.

22 **Q Did you see him again that day?**

23 A No.

24 **Q Do you know whether he came back to the**  
25 **district?**

1 A Oh, I have no idea what he did next.

2 Q Did you ever become aware that he had to fill  
3 out any kind of paperwork about this?

4 A I did not know anything about that, no.

5 Q Is it typical that if you use your department  
6 issued gun, you have to fill out a report about  
7 that?

8 MR. RUSSELL: Objection.

9 Go ahead.

10 A Any time you discharge your firearm, I mean,  
11 it launches an investigation of some sort.

12 Q Can you tell me how that happens and what  
13 that investigation is like just briefly?

14 MR. RUSSELL: Objection.

15 Go ahead.

16 A Briefly, and I'm not very well versed on it,  
17 but -- it depends, but that is when the -- it  
18 depends on like the outcome too. But the  
19 UDFIT -- that's what UDFIT is for. They're Use  
20 of Deadly Force Investigation Team, so that's  
21 usually who would come out and handle it. But it  
22 depends the outcome, what happened with the  
23 shooting, an outside agency may have to be  
24 brought in, but homicide is the one who handles  
25 these investigations.

1 Q Do you remember talking to any of the  
2 following officers that day: Officer -- or  
3 Detective Hale?

4 A No.

5 Q Diaz?

6 A No.

7 Q Borden?

8 A No.

9 Q Bahnhof?

10 A No. Bahnhof -- I don't know who Bahnhof is,  
11 and I don't know the name of the Sheriff that I  
12 spoke to, so...

13 Q Fair enough. Is an investigation over the  
14 use of deadly force launched when someone uses  
15 their department issued weapon regardless of  
16 whether that person is off duty when they use the  
17 weapon?

18 MR. RUSSELL: Objection.

19 Go ahead.

20 A That's a good question. I want to say yes.

21 Q Are CPD officers trained about how to use  
22 their gun?

23 A Yes.

24 Q Does the training that you undergo about how  
25 to use your gun apply whether or not you're on

1 **duty at the time you use it?**

2 MR. RUSSELL: Objection.

3 A I don't understand the question.

4 **Q You go through training about how to use your**  
5 **department issued gun, right?**

6 A Right.

7 **Q And then you have to adhere to what that**  
8 **training teaches you as an officer when you use**  
9 **your gun, right?**

10 A Yes.

11 **Q Do you have to adhere to what that training**  
12 **teaches you if you use your gun while you're off**  
13 **duty?**

14 MR. RUSSELL: Objection.

15 A Yes.

16 **Q In the training that you received as a CPD**  
17 **officer about how to use your gun, are you taught**  
18 **anything about shooting a gun at a moving car?**

19 MR. RUSSELL: Objection.

20 A We're not trained to shoot at a moving car.

21 **Q Are you trained not to shoot at a moving car?**

22 MR. RUSSELL: Objection.

23 A I don't remember ever being trained not to  
24 shoot at a moving car. No, I don't.

25 **Q Did you ever receive any training about**



1 shooting from a moving car?

2 MR. RUSSELL: Objection.

3 A No.

4 Q When you first saw Officer Garcia at the  
5 scene of the incident that day, did you notice  
6 whether he had a gun holster on his hip that he  
7 was wearing?

8 A I can't recall that. I don't.

9 Q Was it your impression at the time that you  
10 arrived at the scene that Devin Badley was  
11 unarmed?

12 A Yes.

13 Q At what point did you first become aware that  
14 this was a shooting rather than a car crash?

15 A Not until afterwards. Not until like  
16 everything was said and done, but I can't tell  
17 you exactly when I found out that. I don't know  
18 exactly when, but it was after the fact.

19 Q Do you remember whether you heard someone say  
20 that?

21 A I don't know.

22 Q It sounds like when you had that first  
23 conversation with Officer Garcia after you  
24 stepped away from Devin, at that point you still  
25 didn't know that he had shot someone, right?

1 A Correct.

2 Q Then at some point you went to your car and  
3 just stayed by yourself, right?

4 A Right.

5 Q During this time before you went to your car,  
6 did you become aware that there was an officer  
7 involved shooting?

8 A I don't know when I found out. I really  
9 don't know. I feel like I would assume that I  
10 figured it out by then or found out by then, but  
11 I don't know.

12 Q After you had spent some time in your car and  
13 talked to your husband, then the next person that  
14 you talked to it sounds like was the county  
15 investigators; is that right?

16 A Yes.

17 Q By that point were you fully aware that this  
18 was an officer involved shooting?

19 A I don't know.

20 Q Can you tell me everything you remember about  
21 that on scene interview with the county  
22 officials?

23 A It's so vague in my memory. It was short,  
24 but I -- I don't know. I just remember a few  
25 questions. I can't tell you exactly what they

1 were. I don't remember. And I remember him  
2 giving me a card and telling me that he would  
3 obviously be in contact, or if I needed anything,  
4 to contact him if I had any questions. I don't  
5 remember the questions that he asked.

6 **Q We spoke briefly about the interviews and**  
7 **investigations that you became aware of around**  
8 **this incident, and I forgot to ask if you ever**  
9 **participated in or became aware of Grand Jury**  
10 **proceedings related to this incident.**

11 **A I did go to the -- I was at the Grand Jury.**  
12 **I believe I was subpoenaed to go, yes. I forgot**  
13 **about that.**

14 **Q Did you provide testimony before the Grand**  
15 **Jury about this?**

16 **A Yes.**

17 **Q Were you represented by an attorney in the**  
18 **course of that testimony?**

19 **A No.**

20 **Q Did you have any meeting with an attorney**  
21 **prior to giving that testimony?**

22 **A No.**

23 **Q Did you talk to Officer Garcia prior to**  
24 **giving that testimony?**

25 **A No.**

1     **Q     Did you review any materials, video, or**  
2     **documents prior to giving that testimony?**

3     A     No. I have tried not to review anything. I  
4     mean, I'm just relying on my own memory and  
5     that's how I've tried to keep it. I don't want  
6     like -- no. The answer is no.

7     **Q     Did you talk to anyone at all about this**  
8     **incident immediately before or after your Grand**  
9     **Jury testimony?**

10    A     In what context? Like --

11    **Q     At all.**

12    A     I mean, I feel like I may say something like,  
13    "Oh, I have to go to Grand Jury, what do I" --  
14    "what is expected at Grand Jury." Because I  
15    think that was my first time ever even having to  
16    go to Grand Jury. But outside of like comments  
17    like that or conversation like that, no.

18    **Q     Besides the two times you talked to the**  
19    **Sheriff's Department, the one time you talked to**  
20    **OPS, the Grand Jury testimony, and the stuff I'm**  
21    **asking you about today, are you aware of any**  
22    **other time that you made an official statement**  
23    **about the events at issue in this case?**

24    A     I feel like I've already answered no to this  
25    and you reminded me of the Grand Jury, so it's --

1 no.

2 Q That's okay. I'm not trying to trick you.  
3 I'm just making sure --

4 A I know. I feel like, though, how did I not  
5 even remember that?

6 Q It's all very hush, hush in the Grand Jury so  
7 don't worry about it.

8 A Okay.

9 Q Okay. Prior to this event or subsequent to  
10 this event have you ever been a witness to a  
11 different event involving officer use of deadly  
12 force?

13 MR. RUSSELL: Objection.

14 A No.

15 Q After you left the scene that day, did you  
16 ever talk to Officer Garcia about what had  
17 happened?

18 MR. RUSSELL: Objection.

19 A I tried to never have that conversation with  
20 him because, again, like I explained to you  
21 before, I don't want to know more than I know.  
22 Like I know what -- you know, what I can recall,  
23 what I saw, what I did, so I never asked. I  
24 didn't want to know. But outside of like very  
25 small-talk, how are you doing, I think -- I don't

1 know. Just like small-talk like that, seeing him  
2 in passing, but never about the details of  
3 anything from that day.

4 **Q After that day when was the next time you**  
5 **remember encountering him in any capacity?**

6 A It's been too long. Best answer I can say is  
7 probably at work sometime after that. I don't  
8 know how soon after.

9 **Q After these events did you and he ever spend**  
10 **time together socially?**

11 A No.

12 **Q Did you ever make any written correspondence**  
13 **with him about these events?**

14 A No.

15 **Q Did you ever hear anybody else in the 2nd**  
16 **District on second shift talking about these**  
17 **events?**

18 A No.

19 **Q Did you ever see or become aware of any other**  
20 **written correspondence within the police**  
21 **department about these events other than what**  
22 **you've already described to me?**

23 MR. RUSSELL: Objection.

24 Go ahead, if you can.

25 A No, I don't think so. No.

1     **Q     Was there ever a staff meeting about these**  
2     **events?**

3     A     No, not that I know of.

4     **Q     Did anyone that was your supervisor ever ask**  
5     **you about these events again?**

6                     MR. RUSSELL:     Objection.

7                     Go ahead.

8     A     No.

9     **Q     At the scene that day you had signed what's**  
10    **called a crime scene log; is that right?**

11                    MR. RUSSELL:     Objection.

12                    Go ahead.

13    A     Not that I recall.   No.   Why would I sign a  
14    crime scene log?

15    **Q     Do you know what a crime scene log is?**

16    A     I'm sorry.   I thought you were asking if I  
17    conducted the crime scene log, that's when you  
18    would sign it.

19    **Q     I'm sorry.**

20    A     I'm sorry.   I misunderstood you.

21             I don't remember if --

22                    MR. RUSSELL:     What is -- do

23                    you have a -- do you have a

24                    question pending or no?

25                    MS. BONHAM:       Yeah.   She's

1 still answering.

2 MR. RUSSELL: All right.

3 A I don't remember if I signed it or if whoever  
4 was completing it added my name to it because I  
5 was on the scene. I don't remember.

6 **Q Can you explain to me briefly what a crime**  
7 **scene log is?**

8 A It's just a log that documents persons on  
9 scene at a crime scene. So usually for any  
10 deaths, natural causes or not, you would complete  
11 a crime scene log just to document who was there.

12 **Q Is there a certain type of officer with a**  
13 **type of job duty that would be responsible for**  
14 **conducting that?**

15 MR. RUSSELL: Objection.

16 Go ahead.

17 A Usually it's just an officer -- usually basic  
18 patrol that a supervisor assigns that duty to or  
19 they just take it upon themselves to complete it,  
20 but they are responsible for documenting who like  
21 arrives and leaves the scene.

22 **Q So any officer that is at the scene at some**  
23 **point, their name would be on the log.**

24 A Correct.

25 **Q Just like an attendance sheet.**



1 A Pretty much.

2 Q Okay. Did you at any point, other than  
3 participating in detaining Devin, interview any  
4 witnesses that day?

5 MR. RUSSELL: Objection.

6 Go ahead.

7 A No.

8 Q Did you physically handle any evidence?

9 A No.

10 Q Were you otherwise involved at all in the  
11 investigation of what had happened?

12 A No.

13 Q Did you ever become aware of any details  
14 about the investigation about what had happened?

15 MR. RUSSELL: Objection.

16 A No.

17 Q Were you ever later asked to look at evidence  
18 from that crime scene?

19 A No.

20 Q Were you ever later asked to look at either  
21 Officer Garcia or Desmond Franklin's car after  
22 you left the scene that day?

23 A No. And the only reason I'm hesitating on  
24 answering is are we talking -- like I don't know  
25 if anything was shown to me in Grand Jury, but

1 from the police department or any other entity,  
2 no. My answer is no.

3 **Q Other than inside the Grand Jury proceedings,**  
4 **it sounds like you never viewed any evidence --**  
5 **is that right? -- or handled any evidence?**

6 A No. I've never handled any evidence. And,  
7 again, I can't remember in any -- if any of the  
8 interviews that I mentioned, OPS, Sheriff's, I  
9 don't know if they ever actually showed me like  
10 photos to, you know, ask more about whatever they  
11 were showing or not. But outside of that, no.

12 **Q Did anyone ever have you physically view the**  
13 **car, either car?**

14 A No.

15 **Q While you were at the crime scene that day,**  
16 **did you at any point contact an attorney?**

17 A No.

18 **Q Are you aware of whether Garcia at any point**  
19 **contacted an attorney?**

20 MR. RUSSELL: Objection.

21 Go ahead.

22 A I do not know.

23 **Q Are you aware of whether Officer Garcia was**  
24 **involved in processing the crime scene in any**  
25 **way?**

1 A No. No.

2 Q No, you don't know?

3 A No. I don't know. And, no, I don't think  
4 so, but --

5 Q Are you aware of whether he handled any of  
6 the evidence at the scene that day?

7 A I am not aware of any of that, no.

8 Q Are you aware of who, if anyone, talked to  
9 him about the incident at the scene --

10 A No.

11 Q -- besides yourself?

12 A No.

13 Q Did you ever hear anyone tell Officer Garcia  
14 to do or not do anything at the scene that day?

15 MR. RUSSELL: Objection.

16 A I feel like I may have told him like talk to  
17 the union, but that's the only thing that I know  
18 or heard or -- you know, that anybody said to do  
19 something, but that's it.

20 Q You said you might have told him that or you  
21 heard someone tell him that?

22 A I think I may have told him that.

23 Q Nobody ever told you not to talk to him; is  
24 that right?

25 A Right. Not that I can recall, no.

1 Q Nobody ever -- it sounds like nobody ever  
2 told you to do or not do anything until you  
3 talked to the county; is that right?

4 A No. There was the first responding  
5 supervisors, I believe, just told me to like  
6 remain on scene just in case they had any  
7 questions, but outside of that, I don't remember  
8 anything else other than talking to the county.

9 Q Do you remember if you ever talked to EMTs  
10 about what was happening with Devin or otherwise?

11 A I did not, no.

12 Q Why was it your practice to bring your gun  
13 and your badge and your radio home with you even  
14 when you were off duty?

15 A So I feel like as a police officer you have a  
16 duty even while you're off duty. Secondly, my  
17 radio, I charged it every night at home, and  
18 again, if I needed to perhaps call something in,  
19 I have it with me on my way to and from work.  
20 And my gun I just always felt safer having it  
21 with me versus leaving it in my locker at work.

22 Q When you say you have a duty even when you're  
23 off duty, what does that mean to you?

24 A I just feel like as a police officer I took  
25 an oath to like serve and protect and that

1 doesn't stop when I'm off the clock. So that's  
2 it.

3 MS. BONHAM: All right.

4 Can we take like a five-minute  
5 break? I just want to look over  
6 my notes, but I'm going to be done  
7 shortly.

8 (Recess had.)

9 BY MS. BONHAM:

10 Q Have you ever made any unofficial written  
11 statements about the events at issue in this case  
12 that I haven't asked you about? For example, on  
13 a social media platform or in a diary?

14 A No.

15 Q Have you ever spoken to anyone in the  
16 Cleveland Police Department about the issues in  
17 this case that we haven't already talked about?

18 A No.

19 Q Is there anything else, any other fact or  
20 impression that you developed or anything about  
21 this case that we haven't discussed that you  
22 would want to share or make clear?

23 A Only thing I wanted to make clear is I  
24 stopped that day to help because I thought it was  
25 an accident, and even throughout like the events

1 prior to uniformed police arriving, I didn't know  
2 that there was -- I knew there was more to it,  
3 but I didn't know exactly what. But that's it.  
4 That's all.

5 Q If I am trying to find out additional facts  
6 about what happened that day, besides the  
7 individuals that we've already named in our  
8 conversation so far, is there anyone else that  
9 you know about that I should ask?

10 MR. RUSSELL: Objection.

11 Go ahead. Answer if you can.

12 A No.

13 Q You don't remember the names or identities of  
14 any of the eyewitnesses that you had mentioned?

15 A No. I did not get anybody's name.

16 Q And you never became aware later of the names  
17 or identity of additional eyewitnesses?

18 A No.

19 MS. BONHAM: Okay. That's  
20 all I have.

21 Counsel?

22 MR. SMARTNICK: No.

23 MR. STADLER: No.

24 MR. RUSSELL: She'll  
25 review, and we'll order a

transcript.

- - - - -

(Deposition concluded at 12:04 p.m.)

(Signature not waived.)

- - - - -

CERTIFICATE

I, Rebecca L. Fumich, Notary Public within and for the State of Ohio, do hereby certify that the within named witness, SERGEANT DALIA LOPEZ, was first duly sworn to testify to the truth and nothing but the truth in the cause aforesaid; that the testimony was by me reduced to stenotype in the presence of said witness; afterwards transcribed, and that the foregoing is a true and correct transcription of the testimony so given by the above referenced witness. I further certify that this deposition was taken at the time and place in the foregoing caption specified. I do further certify that I am not a relative, counsel or attorney for either party, or otherwise interested in the event of this action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed by seal of office at Cleveland, Ohio this 22nd day of February, 2023.

Rebecca L. Fumich

Rebecca L. Fumich, Notary Public,  
within and for the State of Ohio.  
My Commission expires: 6-5-2025.





**WORD INDEX**

&lt; 1 &gt;

**1:22-CV-00061** 1:8**10** 13:3**10:08** 1:22**100** 24:17 37:23 49:16**106** 2:8**12:04** 78:3**1215** 2:8**1400** 12:6, 21 29:19**15** 4:7, 8**16** 4:9**1621** 3:4**17** 11:9**18** 4:10, 11**1900** 2:5

&lt; 2 &gt;

**2:00** 12:2**20** 13:3**2018** 10:16**2020** 12:5, 10 13:19

14:13 16:5 21:7 22:19

25:25 37:13

**2023** 1:22 79:20**21** 4:12**216-241-1430** 2:7**216-241-5310** 2:8**216-664-2767** 2:8**216-722-3112** 3:6**22** 4:13, 14, 15, 16 10:22**22nd** 79:20**23** 4:17**24** 4:18**25** 4:19, 20 14:8**25th** 27:9**25th/Pearl** 26:3**2nd** 10:19 11:10, 16, 25

12:12 13:11, 13 14:6

15:2, 3 29:11 69:15

&lt; 3 &gt;

**300** 3:4**33** 4:21**34** 4:22**36** 4:23**37** 4:24**38** 4:25

&lt; 4 &gt;

**43** 5:1, 2**44113** 2:6 3:5**44114** 1:21 2:8

&lt; 5 &gt;

**50** 2:5 5:3**53** 5:4**54** 5:5**59** 5:6**5th** 10:15, 17 11:10

&lt; 6 &gt;

**6** 4:3**601** 1:20 2:8**61** 5:7, 8**62** 5:9**63** 5:10, 11, 12**64** 5:13**6-5-2025** 79:25**68** 5:14, 15**69** 5:16

&lt; 7 &gt;

**70** 5:17, 18**71** 5:19**72** 5:20, 21**73** 5:22**74** 5:23**77** 5:24**7th** 2:8

&lt; 8 &gt;

**80th** 11:20

&lt; 9 &gt;

**9** 1:22 4:6**90** 28:10 50:16**9th** 14:13 25:25

&lt; A &gt;

**a.m** 1:22**able** 7:19 49:5**absorb** 55:21**academy** 10:15 11:3**accident** 26:11 27:17

37:21 53:1 76:25

**account** 24:15**acronym** 23:12**acting** 38:23 48:15**action** 79:17**actual** 12:18 13:10 27:22**ADAM** 1:4**added** 71:4**additional** 77:5, 17**Additionally** 7:21**address** 12:8**adhere** 63:7, 11**administer** 31:2**administering** 47:11**Administrator** 1:6**adrenaline** 44:12, 17

55:10

**adult** 16:3**advised** 21:17 60:6**affairs** 10:24 11:1 21:9,

15, 20 22:3, 12

**AFFAN** 2:8**affixed** 79:19**aforsaid** 79:7**afterward** 52:1**agency** 61:23**ago** 8:25 9:9 19:24**ahead** 8:2, 7, 11 15:24

16:14 18:15 21:14 22:5,

21 23:2 25:17 26:4

33:13 34:3 36:20 37:4

43:5, 11 53:9 54:7 59:13

61:9, 15 62:19 69:24

70:7, 12 71:16 72:6

73:21 77:11

**aid** 31:2 47:11**ALI** 2:8**allowed** 35:7**amount** 26:15**angry** 44:3**Ankuda** 3:3**answer** 7:7 8:6, 7, 11

15:15, 24, 25 24:25 67:6

69:6 73:2 77:11

**answered** 67:24**answering** 71:1 72:24**answers** 7:3**Anybody** 8:1, 21 9:21

19:12, 15 42:9 58:1

69:15 74:18

**anybody's** 77:15**anyway** 8:7**apparent** 41:8**apparently** 22:22**appear** 20:2, 7 55:1**APPEARANCES** 2:1**appeared** 49:15, 22 54:21**apply** 62:25**appreciate** 52:4**approached** 51:16**approaches** 26:18**approximately** 14:7, 8**April** 13:19 14:13 25:25

37:13

**area** 12:22 27:21, 24

44:25 45:2, 6, 21 46:14

48:24 49:2, 4 53:19

**arrived** 28:9, 13, 20 30:3

51:4 52:19 56:25 64:10

**arrives** 71:21**arriving** 50:18 77:1**asked** 17:9, 14 24:14

41:21 54:13, 22 66:5

68:23 72:17, 20 76:12

**asking** 16:22 28:2 35:2

67:21 70:16

**assigned** 10:17, 20 11:25

21:15

**assignment** 14:19**assignments** 13:2, 9**assigns** 71:18**assistance** 27:4 40:13**assisted** 52:22 53:13**assume** 7:8 65:9**assumption** 31:1**attendance** 71:25**attention** 55:12**attorney** 9:17 20:23, 24

66:17, 20 73:16, 19 79:15

**attorneys** 8:17 9:15**August** 10:16**Avenue** 1:21 2:8 3:4**aware** 21:6, 9 22:11, 17

24:20 25:14 26:2 29:5

39:24 45:11 46:8, 16

47:9 49:20 61:2 64:13

65:6, 17 66:7, 9 67:21

69:19 72:13 73:18, 23

74:5, 7, 8 77:16

&lt; B &gt;

**back** 26:21 27:3 37:13,

22, 25 39:3, 15, 16 40:2

44:8, 21 47:19, 24 48:2, 3

60:24

**backpack** 26:22**bad** 26:11**badge** 42:5, 6, 8, 12 75:13**Badley** 30:15 43:2 44:20,

23 64:10

**bag** 26:22 32:3, 6, 10, 12

33:3, 6 35:23 37:24 38:2

42:7

**Bahnhof** 62:9, 10**based** 24:15**basic** 71:17**basis** 33:17**battery** 27:2 32:7, 22

33:1 35:25

**behalf** 2:2, 8**believe** 8:20 12:6 14:23

20:4 23:3, 20 24:6 25:19

27:1, 18 28:14 30:20

31:6 33:6 34:13 38:1

40:11 41:3 48:11, 22

52:18, 21 53:21, 22 54:12,

16, 20, 23 56:8 58:23

66:12 75:5

**belt** 34:10, 11, 12, 16, 18

36:9

**best** 25:5 30:23 31:25

43:20 46:9 52:24 55:10

69:6

**bit** 26:16 47:10 57:18**black** 42:1**blank** 43:21**blood** 26:10 30:9 56:6**bloody** 31:23 49:22**body** 8:16 9:4, 8

**BONHAM** 2:3 4:3 6:6,  
7 44:17 70:25 76:3, 9  
77:19  
**Borden** 62:7  
**bottoms** 31:7  
**boy** 27:19  
**brawl** 8:4  
**break** 76:5  
**brief** 55:25  
**briefly** 10:12 12:18  
61:13, 16 66:6 71:6  
**bring** 48:19 75:12  
**broadcast** 27:4  
**Brooklyn** 12:11 29:11  
**Brookpark** 11:21  
**brought** 61:24  
**building** 20:18  
  
< C >  
**call** 12:22 13:10 25:6  
27:5 37:15 75:18  
**called** 1:15 28:8 51:3, 6  
58:3, 8 70:10  
**calling** 40:12 48:24  
**calls** 13:17  
**calm** 28:1, 4  
**camera** 8:16 9:4, 8  
**candy** 54:23 56:4 60:13  
**capacity** 16:24 69:5  
**caption** 79:13  
**car** 13:4, 17, 19 14:14  
24:7 26:5, 9, 21, 23 27:17,  
22, 23 29:6, 22, 23 30:3, 8,  
11 37:14 39:2, 3 40:16  
45:18, 24 47:4, 25 48:6,  
23 49:6 51:16 52:11  
53:1 57:14, 17, 25 58:13,  
19, 21 60:17 63:18, 20, 21,  
24 64:1, 14 65:2, 5, 12  
72:21 73:13  
**card** 66:2  
**career** 10:12 11:4  
**Carlee** 14:4  
**carries** 33:20  
**carry** 42:6  
**car's** 45:13, 20  
**Case** 1:8 21:10, 17 58:9  
67:23 75:6 76:11, 17, 21  
**cause** 79:6  
**causes** 71:10  
**certain** 33:18 71:12  
**CERTIFICATE** 79:1  
**certified** 6:3  
**certify** 79:4, 12, 14  
**change** 51:5  
**chaotic** 26:16  
**Chapstick** 32:14  
**charged** 32:24 75:17  
**charger** 33:1

**check** 26:12  
**checking** 56:3  
**chose** 53:11  
**City** 1:20 2:8 7:24 9:16  
11:13, 17 36:8, 11  
**Civil** 1:17 16:7  
**clarification** 7:7  
**clarify** 15:16 19:14  
**clear** 43:16 51:1 76:22,  
23  
**clearly** 26:8  
**Cleveland** 1:20, 21 2:6, 8  
3:5 10:13 11:6 76:16  
79:19  
**cliche** 16:2  
**click** 41:7  
**clock** 76:1  
**close** 31:16, 22 45:5  
49:16  
**closely** 47:16  
**closer** 26:6 47:3, 6, 24  
49:6, 10  
**close-up** 49:19  
**clothes** 41:15, 18, 22  
**clothing** 36:12  
**color** 54:25  
**come** 10:1 22:2 37:20  
47:19 61:21  
**comes** 46:1  
**coming** 10:2 27:8 29:9  
39:16 40:2, 4, 14, 18  
41:11 44:19, 22, 23 46:3,  
4, 17 47:20 48:2, 4  
**commencing** 1:22  
**comment** 55:17  
**comments** 38:9 67:16  
**Commission** 79:25  
**complete** 71:10, 19  
**completed** 10:19  
**completing** 71:4  
**concerned** 48:14  
**concluded** 78:3  
**conducted** 70:17  
**conducting** 71:14  
**confused** 7:9  
**confusing** 7:6  
**connect** 55:22  
**connection** 22:12  
**contact** 43:2 66:3, 4  
73:16  
**contacted** 73:19  
**context** 37:7 67:10  
**conversation** 17:4 54:19  
55:25 60:12 64:23 67:17  
68:19 77:8  
**Correct** 12:15 20:12  
21:21 25:11 29:8 35:1  
38:21 40:5 45:20, 25  
46:2, 6 49:7, 23 65:1

71:24 79:10  
**correspond** 15:12  
**correspondence** 15:20  
69:12, 20  
**counsel** 7:21, 24 9:22  
18:5, 8 77:21 79:15  
**county** 17:14 18:2, 3, 13,  
20 19:3 21:5 22:15  
57:22 58:1 59:15 65:14,  
21 75:3, 8  
**couple** 7:25 9:1  
**course** 66:18  
**COURT** 1:2 6:24  
**covered** 26:10  
**co-workers** 10:3, 6  
**CPD** 41:18, 21 62:21  
63:16  
**CPPA** 18:9  
**crash** 29:6 30:4, 9 40:16  
47:9 48:6 52:11 64:14  
**crashed** 45:15, 18 48:25  
**crime** 25:3 58:24 70:10,  
14, 15, 17 71:6, 9, 11  
72:18 73:15, 24  
**crying** 28:2 46:12 48:18  
**cuffs** 28:15  
**curb** 45:5  
  
< D >  
**daily** 12:18  
**DALIA** 1:15 4:2 6:1, 11  
79:5  
**D-A-L-I-A** 6:11  
**DAVID** 3:2  
**day** 10:14 12:14 13:1, 2,  
5, 11 14:1 19:19 23:6, 20  
24:18 25:24 26:25 33:6  
59:1, 9 60:20, 22 62:2  
64:5 68:15 69:3, 4 70:9  
72:4, 22 73:15 74:6, 14  
76:24 77:6 79:20  
**Deadly** 23:11 24:23  
61:20 62:14 68:11  
**deaths** 71:10  
**decendent** 30:2  
**decendent's** 29:22  
**decide** 30:7  
**decision** 35:24  
**Defendant** 1:11 2:8 7:25  
**definitely** 38:3  
**Delaney** 20:4  
**demeanor** 43:7, 9, 15  
**Department** 2:8 9:16  
16:16, 17 21:25 32:16  
33:8, 23 34:21, 23, 24  
36:1, 2, 16 37:1 42:3  
57:22 61:5 62:15 63:5  
67:19 69:21 73:1 76:16  
**depending** 12:23 25:5

**depends** 25:1, 7, 19 61:17,  
18, 22  
**deposition** 1:14 6:15  
8:15 9:6, 18, 22 10:1, 7,  
10 78:3 79:12  
**depositions** 7:14  
**describe** 43:7, 15, 20 44:7,  
13 46:9 55:11  
**described** 55:7 69:22  
**DESMOND** 1:7 16:5  
21:8 22:19, 24 39:4 47:4,  
16 49:10 51:16 58:19  
72:21  
**detail** 30:23  
**detailed** 10:23 56:9  
**details** 24:1, 3 69:2 72:13  
**detained** 50:8 53:7  
**detaining** 50:1 72:3  
**Detective** 62:3  
**detectives** 23:5  
**Detroit** 11:20  
**developed** 76:20  
**Devin** 30:15, 18 39:4, 6  
41:5 43:2 44:20, 23  
45:22 46:3, 7, 16, 23, 25  
47:21 48:5, 10, 13, 16, 17  
49:5, 25 50:9, 15 51:11,  
14, 19 52:15, 23 53:3, 7,  
13 56:21 58:11, 13 64:10,  
24 72:3 75:10  
**Devin's** 46:4 47:10 60:14  
**diary** 76:13  
**Diaz** 62:5  
**difference** 34:7  
**different** 6:18 11:14  
25:2, 21, 23 33:14 34:5  
68:11  
**direct** 57:2, 5  
**directed** 24:14 27:18  
46:25 59:20  
**directing** 46:24  
**direction** 40:10  
**directions** 57:8  
**directive** 25:4, 8  
**directives** 25:13  
**discharge** 61:10  
**discretionary** 36:22  
**discussed** 22:25 76:21  
**discussing** 19:3 42:3  
**dispatcher** 11:7  
**distance** 40:10 58:22  
**DISTRICT** 1:2, 3 10:17,  
19 11:11, 16, 25 12:13, 23  
13:11, 14 14:6 15:2, 3  
29:11 60:3, 8, 25 69:16  
**districts** 11:14  
**DIVISION** 1:4  
**document** 71:11  
**documenting** 71:20

documents 9:5, 11 19:4  
20:19 22:7 67:2 71:8  
doing 27:7 30:22 31:13,  
23 46:7 68:25  
Domnori 14:23  
downtown 11:19  
drained 54:24 55:9  
drawing 43:21  
driver 26:10, 20 31:3, 10  
driver's 30:20  
driving 13:5 26:3 45:7  
dropped 56:7  
dstadler@law-asm.com  
3:7  
duly 6:2 79:5  
duty 25:2, 3, 20 30:7  
34:4, 10, 14, 18, 21 35:7, 8,  
10, 16, 17 36:9 37:2  
38:16 53:16 54:3 62:16  
63:1, 13 71:13, 18 75:14,  
16, 22, 23

&lt; E &gt;

EASTERN 1:4  
either 12:23 23:5 29:22  
30:2 32:10 44:4 47:17  
48:13 57:2 72:20 73:13  
79:15  
Elena 8:20  
elevated 43:18, 22 44:5, 6,  
10 55:6  
ELIZABETH 2:3 6:7  
elizabeth@ffgfirm.com 2:8  
EMS 27:6 50:17 51:20  
EMTs 75:9  
en 27:6  
encountered 49:5  
encountering 69:5  
ended 12:20 45:22 60:3  
engaged 32:3  
entering 40:16  
entity 73:1  
equipment 36:16 42:4  
ESQ 2:3, 8 3:2  
essentially 37:12  
Estate 1:6  
Euclid 3:4  
evaluations 59:9  
event 15:9 23:6 45:12  
60:10 68:9, 10, 11 79:16  
events 19:13 22:24  
24:15 26:1 67:23 69:9,  
13, 17, 21 70:2, 5 76:11,  
25  
everybody 12:25 26:13  
33:15 34:13  
evidence 59:6 72:8, 17  
73:4, 5, 6 74:6  
exact 33:15

exactly 27:12 40:18  
64:17, 18 65:25 77:3  
examination 1:16 4:1 6:5  
examined 6:3  
example 35:21 76:12  
exchange 19:9 31:19  
54:12  
exchanged 19:8  
excited 43:13 48:18  
exhibiting 55:6  
exist 22:8  
expectations 36:15, 25  
expected 67:14  
expires 79:25  
explain 11:16 21:11  
30:22 34:5 52:25 71:6  
explained 38:7 68:20  
extremely 27:20  
eye 39:11 50:4  
eyes 51:18  
eyewitnesses 77:14, 17

&lt; F &gt;

fact 64:18 76:19  
facts 77:5  
Fair 62:13  
fairly 28:11  
family 19:17  
far 11:21 77:8  
farther 47:10  
fast 51:4  
February 1:22 10:15  
79:20  
fed 34:10  
Federal 1:17  
feed 34:16  
feel 38:13 39:13 40:8  
44:21 45:4 46:20 48:20  
53:17 55:20 56:24 65:9  
67:12, 24 68:4 74:16  
75:15, 24  
feet 31:17 44:1  
felt 50:6 54:8 60:1  
75:20  
fence 27:22, 23  
figure 28:18 53:5  
figured 65:10  
fill 12:25 17:9 60:9  
61:2, 6  
find 21:19 22:2 40:21  
77:5  
firearm 61:10  
first 6:2 14:24 15:1  
16:11, 21 26:2, 5 28:9, 20  
29:5 30:19 31:2 38:6, 9  
40:3, 9, 15, 17 46:13 47:8  
53:25 64:4, 13, 22 67:15  
75:4 79:5  
five-minute 76:4

flat 54:17  
Floor 2:8  
focused 51:14  
followed 17:20  
following 62:2  
follows 6:4  
follow-up 29:3  
footage 8:16 9:4, 8, 12  
Force 23:11 24:23 61:20  
62:14 68:12  
foregoing 79:9, 13  
forget 23:25  
forgot 66:8, 12  
form 31:9, 12 49:13  
formed 43:8  
found 40:19 64:17 65:8,  
10  
FRANKLIN 1:7 16:5  
21:8 22:19, 24 49:10  
Franklin's 72:21  
frantic 27:20  
fresh 23:23  
FRIED 1:4  
Friedman 2:4  
friend 9:24  
front 31:18  
full 31:19  
fully 65:17  
Fumich 1:18 79:2, 23  
further 32:2 58:23  
79:12, 14

&lt; G &gt;

Gallagher 2:8  
GARCIA 1:10 9:2 10:9  
11:23 14:9, 25 19:6 21:2,  
18 27:8, 18 29:25 40:4  
41:8 42:11 44:22 46:1,  
17 48:10, 11 49:24 51:10,  
11, 15 53:1, 6, 19 54:9  
56:19 57:3, 11, 16 60:13,  
19, 20 64:4, 23 66:23  
68:16 72:21 73:18, 23  
74:13  
Garcia's 29:23 43:7  
47:20 48:4  
gate 45:16, 18, 21, 23  
general 25:18  
gentleman's 20:5  
Gerhardstein 2:4  
getting 25:6 37:13  
Gilbert 2:4  
give 7:3, 19 8:10  
given 79:11  
giving 56:4 66:2, 21, 24  
67:2  
go 8:2, 6, 10 13:7, 10, 11  
15:24 16:14, 18 18:15  
21:14 22:5, 21 23:2  
25:17 33:13 34:3 36:20

37:4 43:5, 11 47:19, 24  
53:9 54:7 59:13 60:2  
61:9, 15 62:19 63:4  
66:11, 12 67:13, 16 69:24  
70:7, 12 71:16 72:6  
73:21 77:11  
going 6:25 7:1, 8 8:4  
10:4 12:25 19:10 23:24  
26:2, 6 27:6 28:7, 18  
29:2, 14 31:13 37:22  
38:8, 25 43:16 48:2, 6  
55:25 60:4 76:6  
Good 6:7 13:21 26:15  
31:19 35:3 44:13 62:20  
goofy 23:13  
gotten 31:21  
govern 25:14  
governing 36:15  
governs 24:21 25:8  
grab 32:11 38:3  
grabbed 24:7 28:15  
graduated 10:16  
Grand 66:9, 11, 14 67:8,  
13, 14, 16, 20, 25 68:6  
72:25 73:3  
grass 45:16, 19  
grassy 27:21, 24 44:25  
45:2, 6, 21 46:14 48:24  
49:2, 4 53:19  
green 53:18  
ground 6:19  
group 26:4  
guess 6:12 35:25  
guessing 26:19  
guidelines 25:23  
gum 56:5 60:13  
gun 27:14 32:9 33:4, 6,  
7, 10, 15, 18, 22 34:24  
35:8 36:1 37:2, 11, 18  
41:5 42:19, 22, 23 46:25  
47:1, 13 49:8 53:2 61:6  
62:22, 25 63:5, 9, 12, 17,  
18 64:6 75:12, 20  
guys 8:18 15:5 52:23

&lt; H &gt;

Hale 62:3  
half 28:12 59:3  
Halfway 10:18  
Hall 1:20  
hand 79:19  
handcuff 52:15, 23  
handcuffed 58:12  
handcuffing 28:14 52:22  
53:13  
handcuffs 32:9 52:14, 21  
handle 61:21 72:8  
handled 73:5, 6 74:5  
handles 61:24



handling 13:8  
hang 15:5  
happened 6:25 23:20  
28:16 41:2, 7 48:9 51:22,  
24 52:6 54:16, 20 58:2  
59:9 61:22 68:17 72:11,  
14 77:6  
happening 43:17 51:7  
55:18 75:10  
happens 61:12  
hard 27:11 44:7, 10  
51:25  
head 7:3  
heading 29:7, 21 35:22  
39:3  
hear 57:11 58:16 69:15  
74:13  
heard 41:4, 6 55:22  
64:19 74:18, 21  
hearing 53:2  
held 1:20  
help 16:1 38:14 76:24  
helpful 7:2  
helping 31:25  
hereinafter 6:3  
hereunto 79:18  
hesitating 72:23  
Hey 10:4 15:18 58:4, 8  
Hilow 18:10, 11, 19, 24  
hip 32:10 37:24 64:6  
Hold 17:12  
holster 33:22 34:1, 4, 10,  
14, 20 35:13 64:6  
home 32:24 36:3, 7, 8, 10,  
17 60:4 75:13, 17  
homicide 23:5 61:24  
honest 7:19  
Honestly 18:24  
hook 34:15, 16  
hour 57:19 59:3  
hours 59:3  
house 29:9, 17 32:11  
husband 10:3 58:3 65:13  
hush 68:6  
hysterical 46:9, 11 48:18

## &lt; I &gt;

IA 22:16  
idea 61:1  
identified 38:22  
identify 38:4, 11 44:11  
identities 77:13  
identity 39:20, 25 77:17  
immediately 56:19, 22  
67:8  
impression 31:12 43:8  
53:6 64:9 76:20  
impressions 31:9 40:14  
incident 14:10 15:12  
16:11, 23 19:9, 15 23:16,

19 24:23 37:14 64:5  
66:8, 10 67:8 74:9  
INDEX 4:1, 5  
individuals 77:7  
information 12:8 28:21  
initial 60:16  
initially 31:15 39:7, 13,  
14 40:8, 25 42:17, 18  
43:9, 12, 25 45:3, 11  
46:13 48:1 52:24  
injured 55:2, 3  
inside 12:23 73:3  
insignia 42:2  
instructed 59:25  
instructions 6:20  
interact 58:13  
interaction 28:5 47:21  
51:7 56:18 57:16  
interested 79:16  
interesting 55:23  
internal 10:24 11:1 21:7,  
9, 15, 20 22:3, 12  
interpreting 50:8  
interview 16:17, 18, 20  
17:24 18:2, 6, 8, 25 19:2,  
7, 10, 13 20:10, 16, 20, 23  
21:3 65:21 72:3  
interviewed 16:15 20:4  
22:23  
interviews 6:19 66:6  
73:8  
investigation 18:13, 21  
19:20, 22 20:1, 8 21:5, 6  
22:3, 8, 13, 15, 16 23:11  
59:8 61:11, 13, 20 62:13  
72:11, 14  
investigations 16:6, 10  
21:7 22:17 61:25 66:7  
Investigator 20:4  
investigators 65:15  
involved 16:8, 11 21:18  
24:22 25:6, 10, 15, 22  
30:7 52:7 58:7 59:5, 8  
65:7, 18 72:10 73:24  
involvement 16:23 19:25  
20:8 21:11  
involving 68:11  
issue 10:5 15:13 19:13  
67:23 76:11  
issued 32:16, 19 33:7, 10,  
23 34:21, 23, 24 36:1, 3, 6,  
7, 11, 16 37:1 61:6 62:15  
63:5  
issues 76:16  
items 26:24 32:13

## &lt; J &gt;

J.R 2:8  
jacket 32:12 36:12 42:1  
job 11:5 12:14 71:13

JOSE 1:10 14:9, 25 19:6  
21:2  
jrussell2@clevelandohio.go  
v 2:8  
Jury 66:9, 11, 15 67:9, 13,  
14, 16, 20, 25 68:6 72:25  
73:3  
juvenile 28:14

## &lt; K &gt;

keep 35:12, 22 39:11  
42:4, 5 50:4 67:5  
keeping 37:8  
kept 28:3  
killing 16:5 21:7 22:19,  
23  
kind 26:25 28:24 32:25  
34:15 36:5 44:6 51:25  
53:17 61:3  
knew 52:2 58:5 77:2  
know 6:23 7:6 14:22  
15:20 16:4, 6 17:5 19:8  
21:18 22:7 24:3, 25 25:4,  
6 26:8 27:5, 19 28:7  
35:1 37:9, 10 38:14 39:9,  
10 40:18 41:7, 19 42:13  
43:14 44:7, 8, 24 47:6, 7  
48:20 49:17 50:3, 5  
51:12, 15, 17, 23 52:2, 6, 7,  
9, 13 53:3, 11, 16 54:17  
55:13, 14, 24 56:22 57:19,  
21 58:7 59:2 60:24 61:4  
62:10, 11 64:17, 21, 25  
65:8, 9, 11, 19, 24 68:4, 21,  
22, 24 69:1, 8 70:3, 15  
72:24 73:9, 10, 22 74:2, 3,  
17, 18 77:1, 3, 9  
known 13:1  
knows 10:3

## &lt; L &gt;

Lakeside 1:20 2:8  
larger 33:20  
lasted 13:3  
launched 62:14  
launches 61:11  
Law 2:8 9:16  
lawsuit 10:6  
lawyer 18:9  
lawyers 7:25 18:12, 18, 19  
learned 52:1  
leather 42:1  
leave 32:25 59:25  
leaves 71:21  
leaving 37:9 58:11 59:17  
60:4, 14 75:21  
left 29:16 59:18, 22 60:2  
68:15 72:22  
lieutenant 53:21, 22

life 16:3  
lifeless 49:15, 22  
line 55:19  
lines 26:18  
litigation 16:7  
little 6:18 26:16 43:18  
47:10 57:18  
living 12:9  
location 15:9  
locker 75:21  
log 70:10, 14, 15, 17 71:7,  
8, 11, 23  
long 8:25 11:8 17:12  
24:19 37:5 57:17 58:25  
69:6  
longer 21:17  
look 26:7, 9, 19 31:18  
39:10 47:4, 10, 25 49:6,  
10, 16, 19 55:5 58:19, 21  
72:17, 20 76:5  
looked 31:4, 21 46:14  
47:6 48:23 49:1 54:24,  
25 55:4 56:6  
looking 12:19 27:15 44:7  
LOPEZ 1:15 4:2 6:1, 11,  
12 79:5  
L-O-P-E-Z 6:11  
Lorain 11:20  
lose 24:3  
lot 15:16 23:24 30:9

## &lt; M &gt;

main 28:5  
making 37:10 68:3  
male 26:17 27:15  
manner 46:11  
materials 19:4 20:19  
36:3 67:1  
matter 6:8 9:17 10:5  
14:17  
MATTHEW 2:8  
mean 16:1 31:11 37:7  
38:13 39:11 40:9, 19, 23  
43:15 44:1 48:16 49:17  
50:22 52:2, 6 53:10, 16  
61:10 67:4, 12 75:23  
means 38:20  
media 58:5 76:13  
medical 55:12  
meet 8:19 12:22 18:18  
20:3, 16  
meeting 8:21, 25 9:2, 9  
13:12 66:20 70:1  
meetings 13:13  
member 19:17  
memory 37:25 38:1  
65:23 67:4  
mentioned 9:15 19:20  
56:12 73:8 77:14

met 8:16 14:24 18:23,  
24 20:18  
midnight 12:2, 6  
mind 23:23 37:22  
mine 16:10 35:2  
minivan 45:8  
minute 8:10 28:11 51:5,  
8 56:23  
minutes 13:3 28:24 57:1  
miscellaneous 32:13  
missed 36:12  
misunderstood 13:15  
70:20  
Moeller 3:3  
moment 47:7 54:10 55:1,  
16 56:16  
months 9:1, 9  
morning 6:7  
mother 28:2 50:14  
move 11:10 45:1  
moved 44:25 45:6 58:23  
movies 8:4  
moving 63:18, 20, 21, 24  
64:1  
msmartnick@gallaghersha  
rp.com 2:8  
Mussell 21:24

< N >  
nail 29:3  
name 6:7, 9 17:2 20:5  
62:11 71:4, 23 77:15  
named 77:7 79:4  
names 77:13, 16  
natural 71:10  
near 11:18 45:18  
necessary 13:6 38:13  
need 36:11 37:1 54:1  
needed 13:1 23:22 66:3  
75:18  
needs 50:7  
neighborhood 12:9  
never 14:14, 16 17:6  
22:11 41:23 68:19, 23  
69:2 73:4, 6 77:16  
night 13:8 32:24 34:12  
75:17  
nod 7:4  
normal 11:12  
north 27:9 40:24 46:5  
northbound 26:3 29:14,  
21 40:24  
NORTHERN 1:3  
Notary 1:19 79:2, 23  
notepad 24:5  
notes 23:23 24:5, 11 76:6  
notice 64:5  
number 15:19  
numbers 15:17

< O >  
oath 7:15 75:25  
object 8:10  
OBJECTION 4:5 8:1  
9:20 15:14, 23 16:13  
18:14, 22 21:13 22:4, 9,  
18, 20 23:1 24:24 25:12,  
16 33:12 34:2 36:19  
37:3 38:24 43:4, 10 50:2  
53:8 54:6 59:12 61:8, 14  
62:18 63:2, 14, 19, 22  
64:2 68:13, 18 69:23  
70:6, 11 71:15 72:5, 15  
73:20 74:15 77:10  
observed 32:1  
obtain 52:14  
obviously 25:1 31:23  
32:8 37:8, 11 52:12 66:3  
occurred 56:10  
October 10:23, 24  
offer 28:22  
office 10:4 19:21 29:1  
35:22 79:19  
Officer 9:2 10:9, 13  
11:23 13:16 15:2, 3, 22  
17:15 24:21 27:8 29:23,  
25 33:25 34:20 36:23  
38:5, 8, 12, 23 40:3 41:8  
42:11 43:7 46:16, 17  
47:20 48:4 49:24 51:10,  
15 52:7, 20 53:6, 21 54:4,  
9 56:19 57:16 60:12, 19,  
20 62:2 63:8, 17 64:4, 23  
65:6, 18 66:23 68:11, 16  
71:12, 17, 22 72:21 73:23  
74:13 75:15, 24  
officerly 24:8  
officers 13:19 14:5 28:9,  
13 32:19 33:11 35:7  
50:17 51:20 52:19 58:1  
59:18 62:2, 21  
official 16:17, 23 18:2, 3  
24:15 67:22  
officials 59:15, 18 65:22  
OH 2:6, 8 3:5 61:1  
67:13  
OHIO 1:3, 20, 21 79:3,  
20, 24  
Okay 6:21, 22 7:11, 12  
8:13 13:15 25:24 26:13  
29:4 35:4 36:14 43:22  
45:7, 24 46:7 47:8 54:13,  
14, 21, 22 55:5 58:9 68:2,  
8, 9 72:2 77:19  
Old 12:11 29:11 32:12  
once 25:15 38:22 60:16  
on-scene 16:20  
open-ended 36:5

opinions 49:13  
opportunity 17:6 47:3, 24  
OPS 16:18 20:8 21:2, 5  
22:15 67:20 73:8  
order 77:25  
ordered 20:2, 7  
orders 25:18  
otherwised 79:16  
outcome 61:18, 22  
outside 15:5, 12, 15, 21  
24:1, 4 34:18 37:5 61:23  
67:16 68:24 73:11 75:7

< P >  
p.m 12:2 78:3  
page 6:21  
pale 54:25  
pants 41:23 42:1  
paper 24:6  
paperwork 60:9 61:3  
parked 45:24  
part 19:15 23:19 36:10  
participated 66:9  
participating 19:21 72:3  
participation 16:9  
partner 13:24 14:1, 22  
party 79:15  
passing 69:2  
patrol 13:16 14:5 32:19  
33:11 71:18  
Pearl 12:16 29:14, 21  
45:24  
pending 70:24  
pens 32:14  
people 15:16 16:1 23:12  
26:5, 15  
percent 24:17 37:23  
49:16  
period 11:11, 22 13:23  
14:25  
person 8:22 17:1, 24  
21:22 31:20 38:6, 15  
53:25 62:16 65:13  
personal 12:8 24:5  
persons 71:8  
phone 15:11, 19  
photos 73:10  
physical 31:14 43:1 55:3  
physically 49:4 54:21  
55:2, 4 72:8 73:12  
piece 54:23 56:5  
pistol 35:17  
place 79:13  
plain 41:15  
Plaintiff 1:8, 16 2:2 6:8  
platform 76:13  
played 53:3  
point 27:5, 7, 16 29:6  
31:25 37:18, 21 38:4, 25  
39:11 42:23 43:1, 15

44:18 47:1, 5, 13, 17 48:5,  
14, 20 49:3, 8, 11, 14  
51:15, 22, 23 52:5, 14  
58:14, 17, 20, 22 64:13, 24  
65:2, 17 71:23 72:2  
73:16, 18  
police 10:13, 15 11:3, 6  
15:22 24:8 25:18 26:23  
32:15 38:5, 8, 11, 23 39:2  
54:4 69:20 73:1 75:15,  
24 76:16 77:1  
policies 25:14  
policy 24:20  
positive 24:17  
possession 37:9  
possible 14:20 17:25  
post-COVID 12:3  
practice 11:12 75:12  
precisely 41:2 48:9 52:17  
pre-COVID 12:3  
prefer 34:17  
Preference 33:19 34:14  
prepare 13:4  
presence 79:8  
present 10:14 16:12  
pretty 12:24 26:11  
30:13 48:21 51:7 72:1  
previously 42:3  
prior 15:12 16:6 19:12  
20:16 21:2 30:3 66:21,  
23 67:2 68:9 77:1  
private 35:13  
probably 8:3 50:16 69:7  
Procedure 1:17  
procedures 25:13  
proceedings 66:10 73:3  
processing 59:5 73:24  
Professional 1:18 19:21  
project 14:17  
promoted 10:25  
protect 75:25  
protocol 24:21  
provide 17:14, 15 66:14  
Public 1:19 2:5 79:2, 23  
pull 30:10, 11 33:1 42:23  
pulled 24:2 26:12 30:11  
45:7, 12  
pulling 48:2  
purposes 10:18 34:9  
pursuant 1:16  
put 27:1, 2 32:11 33:1, 3  
41:23  
putting 26:23

< Q >  
quarter 29:18  
question 8:6 13:21 36:5,  
13 37:23 53:2 62:20  
63:3 70:24

**questions** 16:22 29:3  
 65:25 66:4, 5 75:7  
**quick** 28:16  
**quickly** 51:8  
  
**< R >**  
**radio** 11:6 13:8, 17  
 26:23 27:2, 3, 11 28:9  
 31:24 32:5, 7, 15, 18  
 35:25 37:15 39:2, 13, 17  
 40:2 44:18 47:19 48:2  
 75:13, 17  
**radioed** 39:1  
**radioing** 39:5  
**random** 24:6 32:8, 9  
**ready** 8:14 9:5, 17, 22, 25  
 13:6 20:17, 20, 23  
**realized** 42:18  
**really** 16:3, 4 26:5 28:5,  
 21 30:9 38:15 43:14  
 49:15 50:13 55:21, 22, 24  
 56:1 65:8  
**rearrange** 35:5  
**reason** 7:18 28:17 32:22  
 37:24 39:10, 12 72:23  
**Rebecca** 1:18 79:2, 23  
**recall** 8:24 14:20 15:8  
 16:15 17:23 20:5 24:16  
 26:23 27:13 39:6, 14  
 41:19 51:17 54:17 59:3  
 64:8 68:22 70:13 74:25  
**receive** 57:8 63:25  
**received** 63:16  
**Recess** 76:8  
**recognize** 44:19  
**recognized** 41:9, 13  
**recognizes** 44:19  
**recollection** 19:10  
**record** 6:10, 25 7:1, 4  
 23:19 39:20  
**recorded** 18:1 19:2  
 20:10  
**recordings** 9:12  
**record's** 51:1  
**reduced** 79:7  
**referenced** 79:11  
**referring** 25:8 26:20  
 30:15  
**reflecting** 17:3  
**refuel** 13:5  
**regarding** 36:25  
**regardless** 62:15  
**Registered** 1:18  
**regular** 30:8  
**related** 15:18 16:20 22:8  
 32:9 66:10  
**relative** 79:15  
**relax** 28:4  
**relying** 67:4

**remain** 28:23 48:13  
 51:10 53:24 57:5, 9 75:6  
**remained** 10:21, 25 28:6  
**remember** 14:24 17:2, 20  
 23:4, 8 28:14, 15 30:24,  
 25 31:4, 7, 19 33:4 40:7  
 41:17 42:10, 11, 18, 21  
 50:11 51:21 52:3, 17  
 53:11, 18 54:18 55:16  
 56:15 58:3, 25 59:24, 25  
 60:6, 7 62:1 63:23 64:19  
 65:20, 24 66:1, 5 68:5  
 69:5 70:21 71:3, 5 73:7  
 75:7, 9 77:13  
**reminded** 67:25  
**report** 17:3, 7, 9, 11  
 25:20 61:6  
**Reporter** 1:19 6:24  
**reporting** 25:23  
**represent** 6:8  
**representative** 20:3, 13, 25  
**represented** 7:21 18:5, 12  
 66:17  
**request** 27:4  
**requested** 16:18  
**requesting** 40:13  
**required** 35:16  
**respect** 18:12, 20  
**responded** 13:17  
**responders** 28:9, 20  
**responding** 75:4  
**response** 44:10  
**responsibilities** 54:4  
**responsible** 37:12 71:13,  
 20  
**restaurant** 37:10  
**restroom** 37:10  
**retrieve** 37:14, 18  
**retrieved** 26:22  
**returned** 39:7, 12  
**review** 9:4 17:6 19:3  
 20:19 67:1, 3 77:25  
**reviewed** 8:16 9:8, 11  
**right** 7:22 13:12, 15  
 14:15 17:8, 18, 19 18:3, 4,  
 6 19:23 20:11 22:13, 14  
 25:10 26:4, 7 29:7 30:12  
 32:4 34:25 35:10, 14, 17  
 37:16 38:12, 16 39:4  
 40:4 41:3, 14 45:8, 13, 14,  
 16, 17, 19 46:18 47:11, 12,  
 17, 18, 21, 22 48:1, 7, 8  
 50:18 52:9, 15, 16, 18  
 54:5 56:10, 11, 14, 21, 22  
 57:22, 24 60:13 63:5, 6, 9  
 64:25 65:3, 4, 15 70:10  
 71:2 73:5 74:24, 25 75:3  
 76:3  
**river** 11:19  
**Riverside** 30:12

**Road** 11:21 12:16 13:7  
 29:22  
**role** 53:3  
**roll** 12:22 13:10  
**Room** 2:8 8:1  
**roughly** 11:19 12:2  
 29:18 59:4  
**rounds** 33:20  
**route** 27:6 29:13  
**routine** 32:25  
**routinely** 12:16 29:13  
**Rules** 1:17 6:20 36:15,  
 25  
**run** 26:21 32:13  
**rush** 55:10  
**rushing** 32:11  
**RUSSELL** 2:8 4:6, 7, 8, 9,  
 10, 11, 12, 13, 14, 15, 16, 17,  
 18, 19, 20, 21, 22, 23, 24, 25  
 5:1, 2, 3, 4, 5, 6, 7, 8, 9, 10,  
 11, 12, 13, 14, 15, 16, 17, 18,  
 19, 20, 21, 22, 23, 24 9:20  
 15:14, 23 16:13 18:14, 22  
 21:13 22:4, 9, 18, 20 23:1  
 24:24 25:12, 16 33:12  
 34:2 36:19 37:3 38:24  
 43:4, 10 50:2, 20, 22 53:8  
 54:6 59:12 61:8, 14  
 62:18 63:2, 14, 19, 22  
 64:2 68:13, 18 69:23  
 70:6, 11, 22 71:2, 15 72:5,  
 15 73:20 74:15 77:10, 24  
  
**< S >**  
**safeguarded** 37:5, 7  
**safer** 75:20  
**sat** 28:25 57:13, 17  
**saw** 19:18, 19 23:24  
 24:2 30:8, 14, 18, 19 39:7,  
 8 40:9, 17, 25 45:3 46:13  
 64:4 68:23  
**saying** 27:12 30:23  
 50:13 54:17  
**says** 26:18 46:24  
**scene** 16:15 17:10, 15  
 23:5 28:6, 23 30:12 38:9  
 40:16 53:18, 24 54:1  
 56:20 57:6, 9, 23 58:24  
 59:1, 6, 10, 17 60:15 64:5,  
 10 65:21 68:15 70:9, 10,  
 14, 15, 17 71:5, 7, 9, 11, 21,  
 22 72:18, 22 73:15, 24  
 74:6, 9, 14 75:6  
**screaming** 26:17 46:10  
**seal** 79:19  
**second** 10:21 12:1 14:6  
 69:16  
**Secondly** 75:16  
**seconds** 28:10 50:17

**see** 12:5 23:22 25:9  
 26:4, 8, 9 27:8 29:22, 25  
 30:2 39:8 40:3 42:16, 22,  
 23 43:1 46:3 47:13, 16  
 49:8 50:7 51:13 57:11  
 58:4 60:22 69:19  
**seeing** 39:6, 14 53:1 69:1  
**seek** 55:12  
**seen** 39:21 47:1  
**sense** 8:8 44:2, 4  
**sent** 10:19 20:2  
**separated** 32:23  
**September** 10:22, 23  
**SERGEANT** 1:14 4:2  
 6:1, 12, 14 10:25 21:23  
 53:23 79:4  
**sergeants** 21:16  
**Seroka** 14:4  
**serve** 38:1 75:25  
**set** 79:18  
**share** 76:22  
**Sharp** 2:8  
**sheet** 71:25  
**sheets** 32:13  
**She'll** 77:24  
**Sheriff** 16:21 62:11  
**Sheriffs** 59:22  
**Sheriff's** 16:16, 17 18:13,  
 20 29:1 57:22 67:19  
 73:8  
**shift** 10:21 12:1, 4, 5, 18,  
 20, 21 14:6, 18 15:17  
 36:4, 17 38:19 69:16  
**shirt** 41:24  
**shoes** 42:1  
**shook** 43:24  
**shoot** 63:20, 21, 24  
**shooting** 21:18 25:25  
 52:8, 10 61:23 63:18  
 64:1, 14 65:7, 18  
**short** 65:23  
**shortly** 57:1 76:7  
**shot** 49:20 54:18 64:25  
**shouting** 40:11 41:1, 4  
 46:17, 19, 21  
**show** 42:8 51:20  
**showed** 18:25 28:23  
 42:14 53:22 73:9  
**showing** 73:11  
**shown** 72:25  
**sick** 55:4  
**side** 11:18 23:21 30:20  
 44:22, 23 45:20, 23 46:5  
 60:14  
**sides** 11:13  
**sidewalk** 27:9 45:1, 4, 15  
**sign** 13:5 70:13, 18  
**Signature** 78:4  
**signed** 70:9 71:3

simple 24:2  
 simply 9:25  
 simultaneously 40:12  
 sitting 23:21 57:25 58:6, 12  
 situation 25:5, 7 37:15 55:23  
 size 33:19  
 slow 53:4  
 smaller 33:19  
 small-talk 68:25 69:1  
 SMARTNICK 2:8 77:22  
 smashed 26:9  
 social 76:13  
 socially 69:10  
 somebody 15:18 31:17  
 soon 26:13 69:8  
 sorry 16:1 17:12 20:25 36:12 43:19, 20 44:15 50:20 53:12 60:19 70:16, 19, 20  
 sort 24:20 49:4 61:11  
 sound 7:12 23:13  
 sounds 16:2 43:22 47:8 56:3 57:15 64:22 65:14 73:4 75:1  
 south 11:21 27:8 40:24 46:1 53:19  
 speak 19:18 56:25 58:10  
 speaking 19:14  
 specified 79:14  
 spell 6:9  
 spend 69:9  
 spent 65:12  
 split 13:23  
 spoke 29:1 38:7 59:22 62:12 66:6  
 spoken 22:11 39:21 76:15  
 spouse 9:24  
 Square 2:5  
 STADLER 3:2, 3 44:15 77:23  
 staff 70:1  
 stand 23:10 53:17, 24 54:9  
 Standards 19:22  
 standing 28:24 31:17 45:22 51:18 53:20  
 start 12:3, 21 25:25 39:3 48:5  
 started 10:13, 15 12:13 16:22 38:19 50:18  
 starting 27:3  
 State 1:19 6:9 31:14 55:6 79:3, 24  
 stated 9:25 44:9  
 statement 17:16, 18, 21 56:8, 9 67:22

statements 76:11  
 STATES 1:2 25:4  
 station 12:13  
 stay 27:19 48:11 49:24 54:1 58:25  
 stayed 27:25 60:17 65:3  
 staying 50:15  
 stealing 55:19  
 stenotype 79:8  
 stepped 28:21 56:20 64:24  
 stood 53:20  
 stop 56:25 76:1  
 stopped 8:23 76:24  
 store 55:19 56:13  
 Street 11:20 45:5, 13 55:18  
 strike 35:5  
 stronger 46:20  
 stuff 67:20  
 subpoenaed 66:12  
 subsequent 68:9  
 subsequently 17:22 23:6  
 sugar 56:6  
 Suite 2:5 3:4  
 super 51:4  
 Superior 2:8  
 supervisor 12:24 28:22 70:4 71:18  
 supervisors 56:25 60:7 75:5  
 sure 8:22 13:22 14:23 22:10 24:18 26:12 27:5 28:6 37:10 49:16 51:1 59:4 68:3  
 surrounding 22:24  
 sworn 6:2 7:15 79:5  
  
 < T >  
 take 10:12 12:16 16:9 19:25 36:3, 6, 8, 9, 16 42:8 47:3, 9, 24 71:19 76:4  
 taken 1:17 6:15, 23 79:12  
 talk 7:2 9:21 10:5, 9 15:11 16:4 18:19 19:6, 12 20:7, 22 21:2 23:15 25:24 39:17 57:2, 3, 20 58:1 59:21 60:9, 14 66:23 67:7 68:16 74:16, 23  
 talked 8:18 9:16 17:1 19:17 23:4 57:21 60:18, 20 65:13, 14 67:18, 19 74:8 75:3, 9 76:17  
 talking 19:14 34:4 40:8 45:10, 21 48:1 56:18 57:11, 25 59:15 62:1

69:16 72:24 75:8  
 taped 58:24  
 taught 63:17  
 teaches 63:8, 12  
 Team 23:11 61:20  
 technically 53:25  
 tedious 29:4  
 teenage 26:17 27:15, 19  
 teenager 27:20, 24 30:3, 14  
 tell 8:6, 11 10:2 12:9 26:5 27:12 31:22 40:23 58:8 61:12 64:16 65:20, 25 74:13, 21  
 telling 8:18 12:7 28:3 31:18 66:2  
 tells 51:10  
 testified 6:3 40:6  
 testify 79:5  
 testimony 7:15, 19 66:14, 18, 21, 24 67:2, 9, 20 79:7, 10  
 text 15:18  
 Thank 6:12 29:2 34:8 35:5  
 Thanks 6:14  
 theft 56:12  
 thing 7:14 24:8 50:12 74:17 76:23  
 things 7:2 13:6 15:19 24:2 32:1, 8, 14 36:2  
 think 17:13 18:24 23:25 25:21 26:10 27:16 31:1 41:20 43:19 46:4 48:5 49:1 53:15 54:13 56:1 57:4 58:7 67:15 68:25 69:25 74:3, 22  
 thinking 37:25 50:7 52:25  
 third 8:22  
 thought 29:6 52:11 70:16 76:24  
 Thursday 1:21  
 till 29:18  
 Tim 8:20  
 time 7:3, 10 11:12 12:10, 19 13:7, 22, 25 14:5, 19, 22, 24 15:1, 7 16:11, 21 17:16 20:6, 14 28:8 29:16 30:7, 19 31:5, 9 32:1, 20, 23 33:5, 11, 25 36:10 38:16 40:3, 12, 15, 19 41:2, 4 45:8 50:10, 16 51:3, 4, 6, 18 52:2 53:23 54:3 55:12 57:3, 12 58:12 60:18, 20 61:10 63:1 64:9 65:5, 12 67:15, 19, 22 69:4, 10 79:13  
 timeline 49:17  
 times 12:3, 4 47:23 67:18

today 7:1, 19 8:15 9:22 10:4 11:2 16:8 67:21  
 told 21:23 27:18, 19 28:23 32:2 49:24 53:23, 24 74:16, 20, 22, 23 75:2, 5  
 tops 59:3  
 total 59:1, 2  
 totally 36:22  
 trained 62:21 63:20, 21, 23  
 training 10:17, 18, 20 11:11, 15, 22, 23 62:24 63:4, 8, 11, 16, 25  
 transcribed 79:9  
 Transcript 1:14 78:1  
 transcription 79:10  
 trick 68:2  
 tried 67:3, 5 68:19  
 true 79:10  
 truth 79:6  
 truthful 7:19  
 try 28:4 29:3 34:11  
 trying 28:1, 17 31:1 43:19 48:19 68:2 77:5  
 t-shirt 31:6 41:25  
 turned 27:2  
 two 11:14 13:19 34:17 47:23 56:23 59:3 67:18  
 type 15:20 19:9 31:2 32:18 33:10, 18 34:1 42:2 54:19 71:12, 13  
 types 6:18  
 typical 61:5  
  
 < U >  
 UDFIT 23:10, 14, 15 61:19  
 ultimately 57:21  
 Um-hmm 29:20 45:9 50:19, 24  
 unarmed 64:11  
 undergo 62:24  
 understand 7:15, 22 30:15 63:3  
 understanding 49:25  
 understood 7:9  
 undoable 34:12  
 uniform 36:11  
 uniformed 50:17 51:20 52:19 77:1  
 union 18:9 20:2, 13, 25 74:17  
 unit 10:24 11:1 21:16  
 UNITED 1:2  
 unofficial 76:10  
 upset 48:18  
 Use 23:11 61:5, 19 62:14, 16, 21, 25 63:1, 4, 8, 12, 17



68:11  
**uses** 62:14  
**usually** 11:13 12:21 13:2  
 32:8 34:17 41:23 42:6  
 61:21 71:9, 17  
**utilize** 36:11  
  
**< V >**  
**vague** 65:23  
**van** 58:5, 6  
**vary** 13:20, 21  
**vehicle** 26:14 28:25 29:1  
 31:21 40:22 48:25 49:1  
 58:23  
**vent** 19:18  
**verbal** 7:3 17:18  
**versed** 61:16  
**versus** 25:6, 22 46:21  
 52:1 75:21  
**vest** 36:7  
**video** 18:1 19:2 20:10  
 67:1  
**videos** 19:4  
**view** 44:21 73:12  
**viewed** 73:4  
**vs** 1:9  
  
**< W >**  
**waited** 28:22  
**waiting** 23:21 59:21  
**waived** 78:4  
**walk** 26:21  
**walked** 27:21 28:20, 25  
 31:15 38:6 49:2 52:19,  
 20 53:15 57:13, 16  
**walking** 27:3, 9 39:15  
 40:10, 23, 24 42:17 43:9  
 48:24, 25 49:3 53:18, 19  
 56:24  
**want** 6:19 8:1 15:22  
 22:6 35:13 50:24, 25  
 51:3 58:6 59:2 62:20  
 67:5 68:21, 24 76:5, 22  
**wanted** 28:3 50:13 53:7  
 76:23  
**warmer** 26:25  
**wash** 36:9  
**watch** 48:12  
**way** 17:21 23:12 31:25  
 38:14, 18 40:22 44:13  
 46:9 48:13 52:19, 24  
 55:11 73:25 75:19  
**weapon** 62:15, 17  
**wear** 35:7, 16  
**wearing** 31:5 41:15, 17,  
 21, 25 64:7  
**wears** 34:21  
**weather** 12:24  
**weeks** 36:8

**well** 10:23 26:19 27:16  
 31:23 35:1 45:3 61:16  
**went** 11:3 17:24 26:12  
 27:3 31:24 32:3 37:14  
 54:9 60:3, 17 65:2, 5  
**we're** 19:3 48:1 56:18  
 63:20  
**west** 11:18, 19, 20  
**we've** 77:7  
**WHEREOF** 79:18  
**white** 31:6  
**window** 30:21  
**windows** 26:24, 25 27:1  
**wise** 49:17  
**witness** 1:15 22:13  
 24:22 25:1, 3, 22 68:10  
 79:4, 8, 11, 18  
**witnesses** 39:18, 21 45:10,  
 13 72:4  
**witness's** 39:25  
**word** 43:20 44:8 46:20  
**words** 50:12  
**work** 11:13 12:16, 20  
 14:9 15:5, 9, 12, 15, 18, 21  
 26:22, 24 29:7 32:3, 6, 9  
 34:9, 19 38:18 41:23, 24  
 42:1 60:2 69:7 75:19, 21  
**worked** 12:12 14:14, 16,  
 18  
**working** 14:6, 20 36:10  
**worry** 8:5 68:7  
**written** 7:1 17:11 23:18  
 24:15 69:12, 20 76:10  
**wrote** 24:7

**< Y >**  
**Yeah** 14:11 19:16 30:13  
 55:22 56:5 57:1 58:21  
 70:25  
**year** 10:16, 22 19:24  
**years** 11:9  
**yelling** 27:10, 13 40:6  
 43:12, 18 46:10, 19, 20, 21,  
 22, 23 48:4  
**young** 26:16

**< Z >**  
**zone** 13:4